



Constitutional Performance Assessment of the 1987 Philippine Constitution

Summary of Findings





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Preface

Constitutions have played a central role in the political life of the Philippines since it became Asia's first republic in 1899. In addition to organizing the institutions of government, the fundamental charters of the Philippines have provided a terrain for political contestation and for citizen aspiration. This has been especially true of the 1987 Constitution, which consolidated the 'People Power' uprising after the overthrow of strongman Ferdinand Marcos. It is a profoundly optimistic document, born at a significant moment in the country's history, when there was a great deal of hope.

Now is an excellent time to review how the 1987 Constitution has performed, and to ask what reforms will be needed to keep the document relevant for the immediate future. Most constitutions do not last, and the 1987 Constitution is now older than those of most other countries, whose median age is only 27 at this writing. Surviving three decades is therefore a remarkable feat for any fundamental charter, and this is perhaps especially true in a country facing the challenges that the Philippines has. Coup attempts, economic stagnation and secessionist violence are the type of things that have led to the replacement of many other constitutions, but they have not felled the 1987 document. Furthermore, the Constitution has played a major role in the country's political life, as a series of colourful leaders, impeachment attempts and proposals to change the constitution have kept the document in the public eye. It has been a major force in public discourse and elite contestation.

In light of its endurance, it is important to understand how well the Constitution is working, and how it might be improved. This performance assessment takes on that task with rigor and flair. It is a complex project, one that requires considerable nuance in the gathering and weighing of evidence. It is fortunate that International IDEA was able to partner with the University of the Philippines under the remarkable leadership of Maria Ela L. Atienza to conduct the assessment.

How might we know if a constitution is working or not? To make a considered judgement first requires setting out criteria against which to judge actual performance. In doing so, this assessment distinguishes between 'internal' goals, which are set out in the document itself, and 'external' criteria, which might be applied in principle to any constitution in any country. Examples of the latter might be the levels of democracy, development and human rights protection in a country. Of course, to some degree external and internal criteria may overlap, particularly in the case of a 'democratizing' constitution such as that of 1987. The Preamble of the Constitution speaks in lofty terms about democracy, the rule of law, and the goal of building a just and humane society, which might also be external criteria one could use to evaluate any constitutional order. But as the reader will see, the distinction between internal and external criteria is still helpful, as the question of whether the Constitution has achieved the explicit goals articulated by its drafters is a minimum question to answer.

The assessment does not stop there. Constitutions are operating manuals for government, whose rules and provisions help to define and limit the agencies of government. But in an important sense they are also blueprints: they set out the plans and aspirations for the society, and provide goals to work towards. Constitutions do not only describe what exists, but also lay out what the drafters want the country to become. They motivate political action and provide direction to a society. Noble ambitions such as political equality, peace and human flourishing take time to realize, and we would never expect that such goals could be achieved overnight. But the mere fact that we have not yet arrived at the promised land does not mean that we cannot evaluate our progress in that direction.

Doing so requires a rigorous methodology and that is precisely what this assessment provides. Informed by the local context of the Philippines, it lays out numerous benchmarks and measures through which we can evaluate constitutional performance. While it draws on methods developed by scholars and by International IDEA in other contexts, it is also tailored to the specific context of the Philippines. By laying out quite specific measures to evaluate performance, the assessment provides an empirically informed, evidence-based approach that is deeply rooted in the Philippine experience.

Compliance with any constitution is not simple to ascertain. It is not like a light switch, where one can tell whether it is either on or off fairly easily by whether a room is light or dark. Instead there are shades of grey and numerous intermediate positions. In this regard, the performance assessment distinguishes between ‘thin’ compliance and ‘thick’ compliance. Thin compliance can be observed through fairly straightforward evidence as to whether institutions were set up, appointments made and laws adopted in a timely manner. But it is much more difficult to tell whether there has been thick compliance, in the sense of meeting the substantive goals set out in the constitution.

The problem is not simply that evidence is hard to find. Rather it is a structural feature of constitutions. The values and objectives of any constitution are abstract and may even pull in multiple directions. Indeed, the most basic tension at the heart of constitutionalism is that a constitution must set up a government strong enough to produce collective welfare, but not so strong as to dominate people. The American founding father James Madison, in Federalist Paper 51, noted that in framing a constitution, ‘the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself’. Furthermore, there is no single ‘best practice’ in resolving this problem, or indeed in answering any constitutional design question. Instead, each society will have to articulate its own needs and values and will have to live with the genuine tensions that ensue.

The performance assessment finds that thin compliance has been achieved in many, but not all, areas. Thicker compliance is lacking in many areas, including competitive elections, full economic participation by all citizens, and levels of judicial power. As the reader will learn, the assessment pulls no punches and is at times quite critical; yet it also gives government actors credit where it is due for successful implementation of many of the commands laid out in the 1987 text. Readers may disagree with specific conclusions and proposals in this assessment, but no one will doubt the rich documentation of evidence, carefully weighed. The assessment combines academic rigor and systematic analysis with clear prose and powerful arguments.

This assessment not only evaluates the performance of the Constitution, but develops a series of quite concrete recommendations for fuller realization of the promise of 1987, in terms of deeper implementation and thicker compliance. In this sense the performance assessment is not only retrospective analysis, but itself a kind of blueprint that can be used to advance the promise of 1987, which has only been partly achieved.

At the end of the day, constitutions are pieces of paper. They do not implement themselves. Rather they require intense and sustained action by citizens, organizations, government officials, judges and politicians. Nelson Mandela once said: ‘People come and

go. Customs, fashions and preferences change. Yet the web of fundamental rights and justice which a nation proclaims must not be broken.’ The web of fundamental rights and justice proclaimed in the 1987 Constitution can only become stronger if people pay close attention to it, repairing the parts that are broken and reinforcing the parts that are working well. With such effort, and perhaps with a bit of luck, the Constitution will endure another several decades and beyond.

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Foreword

International IDEA is the only inter-governmental organization in the world that is fully dedicated to supporting and sustaining democracy. The Institute's approach is to provide tools, knowledge products and expert advisory services that help countries around the world to debate and develop techniques for deepening democracy and overcoming challenges. International IDEA works non-prescriptively, helping partners define the right questions to ask instead of providing answers to these questions. Central to its work on democracy is International IDEA's focus on constitution-building—a focus which has taken on new relevance across Asia and the Pacific as increasing numbers of countries in the region consider constitutional change to address challenges with multiculturalism, conflict and economic growth.

In the context of the Philippines, International IDEA has closely followed the debates around constitutional reform that have accompanied Duterte's presidency. After campaigning on a promise of constitutional change, known as 'ChaCha' in the Philippines, President Duterte initiated processes and debates on federalism and electoral reform, among other issues, keeping ChaCha on the agenda. These discussions centred around the perceived failure of the 1987 Constitution and the system it established to address centralized power structures and economic development in the Philippines, as well as the conflict in Mindanao. Options for addressing these challenges include further evolution of autonomy arrangements through the Bangsamoro Organic Law or other legislation, as well as potential amendments to the 1987 Constitution. Considered amendments focus on developing a federal system in the Philippines, moving from a presidential to a semi-presidential system of government, and reforming the electoral system to strengthen representation and the party system.

The first publication resulting from this research project, *The Chronology of the 1987 Philippine Constitution* (Atienza 2019), details the context under which the 1987 Constitution came to be and its distinct spirit and purpose. The Constitution enshrines the concepts of representative democracy and separation of powers; establishes independent constitutional commissions; promotes local autonomy; and restores legislative and judicial powers vis-à-vis the presidency. It aspires to prevent a repeat of the tyranny that the Philippines had lived under in the past by establishing presidential term limits, a bicameral Congress and Congressional approval over declarations of martial law.

Despite positive aspects, recent developments seem to suggest that the 1987 Constitution has not fully addressed the aspirations of Filipinos. The Philippines continues to suffer from unequal development, with most economic and political activity focused in Metro Manila. Service delivery is viewed as unresponsive and unequal. This has given rise to demands from certain sectors for strengthened autonomy and decentralization arrangements, be they federalism or better implementation and reform of the existing Local Government Code

passed in 1991, that dovetail with existing autonomy claims emanating from the Mindanao peace process. President Duterte built his political platform and base around addressing these issues—forcing constitutional change onto the political agenda in the Philippines. In this context, International IDEA built on its long-standing partnership with the Center for Integrative and Development Studies at the University of the Philippines to adapt and apply the constitutional performance assessment methodology with the hopes of contributing to more evidence-based public discourse on ChaCha. International IDEA provided its constitutional performance assessment methodology as a framework for examining how a constitution is enduring, by examining various institutions in a country and their adherence to the vision, principles and guidance laid out in the constitution. The University of the Philippines then professionally adapted and designed research tools to rigorously apply the methodology to the Philippine context.

There is a long road ahead for constitutional reform in the Philippines. Regardless of the path that the Philippines chooses, it is important to generate knowledge and understanding on the 1987 Constitution’s performance to date. Many people are concerned about the scope of the change contemplated in the Philippines—for example, if the constitution is opened up, will there be backtracking on any democratic developments? With federalism, are there increased opportunities for capture of economic and political systems in the new subnational entities?

The findings of this constitution performance assessment will hopefully allow for the design of an evidence-based constitution-building process with a clear scope, where different options for change can be considered on the basis of measures of performance and research indicating which aspects of the constitution are working for the Philippines and which are not. The research consolidated in this *Summary of Findings* may also help to counteract rumours and manage expectations for constitutional change by grounding public perceptions and debates in the context of the current constitutional landscape in the Philippines. Altogether, this will assist stakeholders to examine constitutional performance, and define problems with the current constitution before suggesting solutions, be they constitutional reform or not.

Leena Rikkilä Tamang
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1. Introduction

This performance assessment was commissioned by the International Institute for Democracy and Electoral Assistance (International IDEA) to assess the performance of the Philippine Constitution over the last 32 years and examine the Constitution's internal requirements for technical implementation, as well as its aspirational purposes and success in achieving them. The 1987 Constitution emerged after the 1986 Epifanio de los Santos Avenue (EDSA) People Power Uprising that removed Ferdinand Marcos and sought to establish a post-authoritarian regime. Succeeding national administrations have attempted to revise or amend the Constitution, although there have been no successful attempts to date. However, the election of Rodrigo Duterte to the presidency in 2016 opened a whole new discussion about whether or not it is time for the Philippines to shift to a federal form of government from its current unitary but devolved form. Debates about whether to revise, repeal or replace the Constitution continue.

This assessment supports an evidence-based constitution-building process with a clear scope, in which different options for change can be considered on the basis of the measures of performance and research indicating which aspects of the Constitution are working for the Philippines and which are not. This process is similar to what Hutchcroft (2019: 13) pursued in studying electoral system redesign, that is, a problem-driven process of political reform that requires 'identifying the major problems to be addressed and then (and only then) working out what would be the proper solutions to resolving those problems'. This approach is in contrast to the 'inherently flawed solution-driven process of political reform'; for example, advocating for a shift to a federal system without linking the reform to a problem it could potentially help resolve. Before recommending constitutional amendment, constitutional revision or other reforms or actions, it is important to look at the current Constitution and assess the performance of its goals and provisions. Any shortcomings in the Constitution should be identified first before possible changes are addressed or proposed.

This summary of the findings from extensive background papers on each constitutional design area, prepared by the project team, begins with a brief summary of the International IDEA methodology as applied in the assessment. This is followed by an introduction to the constitutional design areas that the assessment focused on, before presenting the key findings and policy recommendations for each constitutional design area developed on the basis of the assessment.

The first part of the current assessment, *Chronology of the 1987 Philippine Constitution* (Atienza 2019), has been published by the University of the Philippines Center for Integrative and Development Studies and International IDEA as a public policy monograph. The chronology focuses on the background to and processes of writing the 1987 Philippine Constitution and its contents, as well as a preliminary mapping or assessment of its

application in terms of the following: (a) elections held; (b) laws enacted by the two Houses of Congress, as mandated by the Constitution and judicial decisions of the Supreme Court interpreting provisions of the Constitution; (c) impeachment cases under the provisions of the Constitution; (d) a timeline of the peace processes pursued from 1987 to the present; and (e) a summary of the approval ratings and surveys of the officials and institutions created under the 1987 Constitution. This chronology was used to identify the internal and external criteria applied in the rest of the assessment, as well as serving as a foundation for the thick and thin compliance analysis.

2. Constitutional performance methodology as adapted and applied to the Philippines

The assessment of the 1987 Philippine Constitution's performance is based on an adapted application of International IDEA's constitutional performance assessment methodology. This methodology looks at how a constitution is enduring by examining constitutional design areas (institutions and issue areas), their implementation and how well they are performing in terms of promoting the vision and guidance that underlie the constitution.

The constitutional performance assessment methodology calls for a multi-pronged approach. First, the constitution is reviewed using a set of 'internal criteria'—identified with reference to the constitution's self-defined goals, often found in the preamble of the constitution. The internal criteria are then assessed by looking at what the constitutional provisions say about different institutions designed to meet these criteria. Compliance with the internal criteria can often be assessed by looking at whether or not the technical requirements in the constitution have been met, that is, if the constitution calls for the establishment of a legislature, has it been set up? The methodology also calls for assessment of the constitution's design with reference to a set of 'external criteria', which comprise more normative criteria on what a constitution should be and do in accordance with global practice and theory. The external criteria identified for this assessment are (a) democratization; (b) decentralization; (c) social justice, human rights and gender equality; (d) peace and conflict resolution; and (e) economic development. Assessing these criteria usually requires looking at thick performance, meaning a deeper look not only at whether a legislature or other institutions were established but also at how they are functioning in practice. After identification of the internal and external goals, the assessment methodology requires a systematic analysis of different constitutional design areas—including associated processes and provisions—within the constitution to see how well designed these are for achieving the goals. The assessment is divided according to the following constitutional design areas: (a) electoral institutions; (b) legislative–executive relations; (c) judiciary; (d) accountability institutions; (e) local governments; (f) rights; (g) security sector; (h) economy and labour; and (i) citizenship and equality. This multi-pronged approach allows for better identification of design flaws in the constitution, permitting a nuanced analysis of whether shortcomings in constitutional performance are a result of poor substance or poor implementation.

The matrix in Table 1 lays out the internal and external criteria by constitutional design area identified for use in the assessment of the Philippine Constitution.

Table 1. Internal and external criteria used in the assessment of the Philippine Constitution

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Electoral processes and institutions	Regular, competitive and inclusive elections: Are elections held on time?	Are elections perceived as free and fair? Are there means of removing politicians who abuse their position? Is there regular turnover in office? Have term limits been observed, changed or violated? Are elections well organized in a manner to ensure that every citizen can exercise their right to vote? Is there real competition between parties? Do parties run on their manifestos or on identity? Have the rules for peaceful change in government been followed? Have referendums, recalls or other direct democratic polls been held?	Are elections for local government positions held regularly? Is turnout for local elections similar to that for national elections? Have there been drastic changes in the drawing of electoral districts? Are certain regions over-represented or under-represented in the legislature? Do certain areas consistently vote for losing candidates in presidential and vice-presidential elections?	Has change in government occurred beyond elite groups? Do women and minorities have opportunities to run? Are women and minorities represented in national and local offices? Is participation in elections available for all groups in society?	Do elections result in violence? Is intimidation and violence used to win elections? Do rebel and other armed groups respect the legitimacy of elections? Have the electoral milestones of different peace agreements been met?	Are bribes used to win elections? Is there a low barrier to entry in politics? Are rules on party and campaign financing enforced?

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Legislative–executive relations	Strong legislature vis-à-vis the executive: Have institutions been set up? Are executive and legislative branches operating effectively? Are relations operating effectively?	Were the discussions/ deliberations transparent? Is there access to decision-making processes? Aside from state officials, which groups/actors were consulted by Congress in its deliberations? Do state institutions maintain the support of the people? What are the enabling and constraining mechanisms? Are the different branches of government able to use their constitutional powers to check the power of other branches? Does any one branch of government dominate decision-making? Are decisions perceived to be in the interests of the nation? Is there capture of democratic institutions by those in power?	To what extent have debates on decentralization shaped the discussions? What were the specific concerns around decentralization? Have there been conflicts between the executive and legislative branches in looking at decentralization and autonomy issues? How have these conflicts been resolved?	Did the discussions on decentralization, autonomy and the peace process involve social justice, human rights and gender equality goals? What factors and specific contexts brought about these discussions?	Have laws relating to peace and conflict resolution been passed? Have there been conflicts between the executive and legislative branches in looking at peace and conflict resolution issues? How have these conflicts been resolved?	Does the practice of checks and balances used by one institution on another reflect an interest in improving the provision of public good? Of improving the economy? Is there corruption among state institutions?

2. Constitutional performance methodology as adapted and applied to the Philippines

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Judiciary	Independent judiciary vis-à-vis the executive and the legislature: Are courts formed? Are courts operating? How are judges selected? Is the process in accordance with the Constitution? Have reforms in the Constitution been instituted? Does the judiciary have power to ensure implementation of the Constitution in line with its intent and the rule of law?	Is the judiciary perceived as independent and competent? Are there accountability and transparency mechanisms? Does the judiciary corps fairly reflect the population? Does the judiciary act as an independent arbiter in intra-government disputes? Are courts accessible for all?	Do court decisions and procedures support decentralization and autonomy, particularly in interpreting local autonomy issues?	Are women, minorities and other sectors represented in the judiciary? Do court decisions, policies and programmes promote social justice, human rights and gender equality?	Do court practices and decisions support peace and conflict resolution?	Do courts favour certain sectors in decisions affecting the economy? Do courts facilitate/hinder economic development and equity? Is there corruption in the judiciary?

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Accountability institutions	Independent accountability institutions: Are constitutional offices established to independently and expertly oversee different government functions?	How does the Commission on Elections (COMELEC) fare in its mandate to protect the right to suffrage? To what extent have constitutional bodies such as COMELEC and the Civil Service Commission (CSC) guaranteed equal access to public office? What has been done to ensure unfettered participation by the qualified voting age population? What has been done to ensure that property and pedigree do not hamper the right to vote and the right to run for public office? What is the prosecution rate of anticorruption agencies vis-à-vis other prosecutorial bodies? What is the average time taken to prosecute corruption cases? How does this rate compare with those in other countries? How have courts upheld or deviated from the salient provisions of accountability legislations in their pronouncements?	Are constitutional bodies such as the CSC, Commission on Audit (COA) and COMELEC able to operate effectively in autonomous regions? Is the COA able to perform financial audits without constraint in the autonomous regions? Is COMELEC able to hold relatively peaceful elections in the autonomous regions?	Are the COMELEC decisions on party registration and accreditation consistent with the provisions of Republic Act 7941 (the 1995 Party-List System Act)? What has been done to encourage the participation of sector-based and local parties in the electoral arena? What is the prosecution rate and prosecution success for election-related offences? In practice, are public officials barred or punished from holding public office for prior election-related offences?	What is the state of election-related violence in the Philippines? Are perpetrators of election-related violence punished? In general, have elections facilitated peace and development in the countryside?	Have COA audits facilitated sound public fiscal management? Have COA audits been consistent with the Local Government Code's mandate of fiscal autonomy at the local level? What is the compliance rate to COA audits among government agencies? Has the COA been effective in minimizing corruption in public procurement and government projects?

2. Constitutional performance methodology as adapted and applied to the Philippines

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Local governments	Decentralization and local autonomy: Are local governments formed? Are they operating? Have reforms according to the Constitution been instituted?	Are local government officials selected in a legitimate manner? Are they viewed as responsive and accountable? Are there institutional mechanisms allowing participation of citizens and groups in local governance? Are these followed in practice?	Do local governments have sufficient powers and autonomy? Do local governments exercise devolved functions and powers? Do local governments deliver or facilitate the delivery of public goods and services at the local level? Are central–local tensions resolved? How?	Do local governments promote social justice, human rights and gender equality? Are women, minorities and other sectors sufficiently represented?	Do local governments promote peace and conflict resolution?	Do local governments facilitate/ promote economic development? Is corruption a problem at the local level? How about political retrenchment?
Rights	Respect for human rights: What progress has been made on implementation of major rights provisions?	Do people feel free to exercise their constitutional rights? What is the record on political rights? Are rights associated with freedom of assembly, to vote, to run for election and to join associations and political parties protected in law and practice, in accordance with the Constitution?	Do national government institutions tasked with advancing rights pertaining to labour, agrarian and natural resources reform, urban land reform and housing, health, women and indigenous peoples have offices that are accessible to people in each region/province? Do local governments have powers to forward rights pertaining to labour, agrarian and natural resources reform, urban land reform and housing, health, women and indigenous peoples?	Is rights protection seen as equal for all? Does political discourse reflect the interests of the poor and disempowered? What progress has been made towards socio-economic and other rights contained in the Constitution pertaining to labour, agrarian and natural resources reform, urban land reform and housing, health, women and indigenous peoples? Has the government made policy/ laws and/or created institutions to fulfil rights? How has the judiciary interpreted such rights? Are such rights provided to all groups?	Does the government make significant efforts to resolve cases of extrajudicial killings? Are the rights of combatants in encounters between the state and armed groups observed? Have issues of rights raised by different rebel groups been resolved?	Do public services perform efficiently? Is there limited bureaucracy and corruption in health, housing, education and other public sector service industries?

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Security sector	Supremacy of civilian authority over the military: Are formal institutions established? Have reforms been instituted? Has security improved since the promulgation of the Constitution?	Are there laws governing the security sector and are these compliant with the Constitution? Is civilian authority supreme over the military? What is the public perception of the police, military and other security agencies? Is there fair representation of different groups in the security sector? Is there fair representation in leadership positions in the security sector?	Does the security sector support decentralization and autonomy?	Are women, minorities and other marginalized sectors (e.g. indigenous peoples, LGBT) represented in the security sector? Do security sector policies, programmes and actions promote social justice, human rights and gender equality? Is security provided for communities according to their expectations? Equally?	Is there state monopoly on the use of force? Do groups use politics to resolve conflicts rather than resort to force? What is the role of different security sector agencies in peace and conflict resolution?	Is bribe-taking commonplace among security sector agencies?

2. Constitutional performance methodology as adapted and applied to the Philippines

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
Economy	Have provisions designed to shape the economy been implemented? Have economic provisions facilitated economic growth and addressed regional inequalities?	Do laws widen and guarantee access to economic opportunities? Have policies allowed for alternative access to markets other than on the basis of wealth? Is there a programme for land redistribution or land reform? What percentage of legislative enactments per Congress are devoted to economic policies? What is the passage rate for these types of legislation? What are the areas of focus (e.g. job creation, taxation, labour policies)? Do laws protect private property? How are these laws upheld in judicial and administrative pronouncements?	Have institutions facilitated the revenue-generating capacity of local government units (LGUs)? Has fiscal autonomy in its current form facilitated economic prosperity among LGUs? Have government transfers to LGUs aided countryside growth and development? Has local income-generating capacity improved under the current fiscal set-up?	Are laws providing economic opportunities exclusive to citizens? Are aliens allowed to own property, pursue a livelihood or practice a profession? Do policies allow for equitable access to economic opportunities for women, the elderly, single parents and persons with disabilities? Is there a working social security programme in practice? How do individual workers and unions fare in labour cases heard before courts and administrative bodies? Do institutions protect the right of workers to organize and bargain for fair wages and the protection of their rights?	Are there programmes that enable economic growth and opportunities in the autonomous regions? How do provinces in the Autonomous Region in Muslim Mindanao (ARMM) compare with other provinces in terms of economic prosperity? What is being done to narrow the gap in income and human development between the ARMM provinces and the rest of the country?	Have institutions (e.g. laws) narrowed the gap between income classes and promoted participation by the marginalized? What percentage of legislative enactments per Congress are devoted to economic policies? What is the passage rate for these types of legislation? What are the areas of focus (e.g. job creation, taxation, labour policies)? Do courts uphold the rights of all economic stakeholders (corporations, small enterprises, etc.)? Do laws protect the right to private property? Is such a right upheld in the courts and administrative bodies? Has government policy under the Constitution resulted in increased growth and development? Are barriers to establishing business low? Do business interactions with the government (registrations, licensing, tax payments,

Constitutional design areas	Internal criteria	External criteria and thick compliance assessment questions				
		Democratization	Decentralization	Social justice, human rights and gender equality	Peace and conflict resolution	Economic development
						etc.) work efficiently without corruption? What is the average waiting time for the above-mentioned transactions? How do firms perceive the overall business climate and the ease of doing business in the country?
Citizenship/equality	Equality among citizens: Is the concept of citizenship included in the law/ Constitution? Are there mechanisms for how citizenship is determined? Is there a process of naturalization? Is there a concept of citizenship beyond the technical requirements of the law, i.e. a substantive form of participation?	Are there mechanisms or laws by which different groups are represented in the political arena? How is this done? Are these implemented? Are political parties representative of different groups of people? Is the political leadership sensitive to the concerns forwarded by different groups of people? How are these concerns responded to? Is consent of the people an important concept among political leaders and parties?	Is there an idea of 'local citizenship'? To what extent are 'local citizens' able to affect policy at their level? How are the interests of 'local citizens' considered? In areas where there is great diversity, how are these interests addressed? Does everyone benefit from the public goods provided by local government?	Are there guarantees of equal protection of rights among different groups? To what extent have these guarantees been realized? Are there instances of discrimination based on ethnicity, gender, religion or political affiliation? How are these resolved? Do people benefit from public goods produced by the political order?	Does violent conflict occur over the concepts of identity and who belongs to the political community? Are there peace and conflict issues ensuing from the differences among groups, particularly in terms of identity (political, ethnic, gender, etc.)? How did these issues come about? How does the government respond to these issues? Does the government consider one group alone or does it consider all interests in a given situation?	Are citizens able to pursue economic activity without unnecessary or unreasonable difficulties? Does everyone benefit from the economic policies implemented by the government? Are opportunities to develop available to all citizens? To what extent can one achieve economic prosperity at the personal level? Are citizens' interests considered by politicians and economic managers in developing policies?

The constitutional performance assessment methodology requires an examination of compliance with the Constitution in a thin and thick sense. ‘Thin compliance’ simply refers to whether government branches and institutions responded to their mandate in the Constitution to pass legislation, form policy or perform other specific actions. This is a more factual and quantitative inquiry. On the other hand, assessing ‘thick compliance’ is more complex and requires a qualitative assessment of whether the Constitution has, for example, created a stable system of governance or equality between citizens, deepened democracy and transformed conflict.

The performance assessment was completed with the use of existing survey data, relevant statistics, court decisions, legislative data, election data, interviews and focus group discussions (FGDs) with key stakeholders (e.g. judges, prosecutors, court employees, public and private lawyers, legislative staff, local government officials and staff), a non-random survey of scholars and practitioners from the country’s strategic studies and policy community, and previous assessments and reports. In this way, it uses mixed quantitative and qualitative data.

3. Constitutional design areas assessed

The 1987 Constitution, a product of the 1986 People Power Uprising that toppled the Marcos dictatorship, enshrined the concepts of representative democracy and separation of powers, established independent constitutional commissions, promoted local autonomy, and restored legislative and judicial powers vis-à-vis the presidency (for more information on the history of the 1987 Constitution's development, see Atienza 2019). This section will look at how constitutional design was carried out to meet these goals, considering the different constitutional design areas identified in the previous section.

The 1986 Constitutional Commission (ConCom), which was tasked with drafting what came to be known as the 1987 Constitution, was convened three months after the EDSA People Power Uprising. Therefore, many of the provisions of the Constitution reflect people's frustrations about the past and aspirations for the future. The themes of participatory democracy, social justice and human rights can be found throughout the document. Despite the appointive nature of the members of the ConCom and only four months of deliberations, the processes involved numerous hearings around the country, with diverse groups representing different interests expressing their views on various aspects of the Constitution. After drafting, the members of the ConCom travelled around the country to explain the contents of the draft and campaigned for its ratification. It was ratified on 2 February 1987.

Because the ratification of the 1987 Constitution was a major milestone in the transition of the Philippines back to liberal democracy, the first design area tackles the question of whether or not there have been regular, free and fair elections to promote a representative government. This includes analysis of electoral administration, as well as participation in elections as voters and candidates. The Constitution stipulates the qualifications of those who can exercise their right to suffrage. The Constitution also stipulates the qualifications necessary for running for national elective offices (i.e. President, Vice-President, Senator, Member of the House of Representatives). On the other hand, the qualifications needed to run for local elective offices are defined only in the Local Government Code (LGC) of 1991. Disqualifications for nationally and locally elected officials are also stipulated in the Omnibus Election Code and the LGC. Lastly, the 1987 Constitution established the Commission on Elections (COMELEC) as a constitutional commission to provide additional rules and oversight for national and local elections, such as setting the duration of the campaign period and ensuring that bona fide candidates for any public office are free from any form of harassment or discrimination.

The second and third design areas assessed focused on the three branches of government. The 1987 Constitution brought back the doctrine of 'separation of powers' and the system of checks and balances in designing legislative–executive relations to limit the possibility of

authoritarian government. The executive and legislative branches each have their own set of powers and functions, but they have shared powers that each can use to check the other branch and prevent excessive uses of power. Broadly, the President and the entire executive branch (including local government units (LGUs) and government-owned and -controlled corporations) are tasked by the 1987 Constitution to implement and enforce the law, whereas the legislative branch is mandated to craft laws. The post-EDSA Constitution established a bicameral legislature comprising the Senate and the House of Representatives. This assessment specifically examines the relationship between these bodies and the executive branch of government.

The third branch of government envisaged in the 1987 Constitution was a strong and independent judiciary, to serve as the guardian of the Constitution and the guarantor of the basic constitutional rights of the people, and to provide horizontal accountability by serving as a stronger check on the executive branch. The 1987 Constitution gave members of courts security of tenure. It also gave the Supreme Court expanded powers of judicial review as a form of political insurance so that it could be a forum to challenge the constitutionality of legislation, to interpret the Constitution and, in general, to enable the judiciary to monitor the executive branch for any abuse. This is a direct response to the judiciary's experience under the Marcos regime and the regime's excesses. The Constitution also established the Judicial and Bar Council (JBC), whose principal function is to screen appointees and recommend them to the judiciary to enhance the independence, integrity and legitimacy of the appointment process.

In addition to establishing three branches of government, the 1987 Constitution provided for the creation of independent bodies, which constitute the fourth constitutional design area examined in the assessment. These bodies are:

- **The Civil Service Commission (CSC).** The CSC serves as the central personnel agency of the government.
- **COMELEC.** COMELEC is tasked with overseeing and facilitating the holding of elections. The poll body's mandate is primarily to safeguard the people's right to suffrage.
- **The Commission on Audit (COA).** The COA is the watchdog of the government treasury and also serves as the central accounting office of the state.
- **The Ombudsman.** The Ombudsman is tasked with serving as the 'protector of the people' and is expected to act promptly on complaints against public officials. It holds investigative powers, remedial powers, administrative jurisdiction and criminal jurisdiction.
- **The Sandiganbayan.** This is the Philippines' anti-graft court and has jurisdiction over civil and criminal cases involving graft and corrupt practices and other such offences committed by public officers and employees in relation to their office.

Collectively, these bodies were charged not only with safeguarding democratic processes and institutions but also with ensuring that government is accountable to the citizens and the Constitution. The independent bodies were explicitly designed to ensure their independence from private interests and to insulate them from political pressure.

After the 1986 People Power Uprising, the new administration renewed the government's commitment to give enough powers and responsibilities to local governments for them to become partners in development and democratization with the national government. This was after the experience under martial law, in which decision-making was mostly centralized, allies of the administration dominated most local government seats, and local development

was neglected. The 1987 Constitution thereby placed specific emphasis on decentralization and autonomy. It instructed Congress to enact a new LGC, as well as organic acts for autonomous regions in the Cordilleras and Muslim Mindanao. In addition, local governments were given additional powers and responsibilities as venues for people's participation and for local development. The fifth constitutional design area delves into how well these innovations have performed in terms of truly empowering local governments and enhancing their authority and autonomy in accordance with the 1987 Constitution.

In response to the excesses of the Marcos regime, the Constitution attempted to institutionalize a number of provisions on human rights. It also sought to address the problem of inequality, with protections of rights for specific vulnerable sectors and sections that mandate the state to provide certain services in the name of 'social justice'. The sixth design area covered by the performance assessment examines the following rights provisions enshrined in the Constitution:

1. **Human rights institutions.** The Commission on Human Rights of the Philippines (CHR) and the Regional Human Rights Commission Charter for the Autonomous Region in Muslim Mindanao (ARMM) (now the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)) were created. These institutions are tasked with regularly recording cases of extrajudicial killings, enforced disappearances, torture and other human rights issues specifically pertaining to the right to life.
2. **Right to privacy of communication and correspondence.** Article III § 3 of the Constitution pertains to privacy of communication; Republic Act 10173 (or the Data Privacy Act of 2012) more broadly pertains to the use of citizens' personal information and invokes the right of privacy and communication in its declaration of policy.
3. **Right to information** on matters of public concern. A law on freedom of information is yet to be passed; however, freedom of information policies were enacted by the executive branch, as well as in some local governments.
4. **Freedom of association.** This pertains to the right of citizens to form labour and people's organizations.
5. **Access to justice (courts, quasi-judicial bodies and adequate legal assistance).** The Public Attorney's Office (PAO) is mandated to render, free of charge, legal representation, assistance and counselling to indigent persons in criminal, civil, labour, administrative and other quasi-judicial cases.
6. **Freedom from arbitrary detention.** This stipulates that no person shall be detained solely by reason of her or his political beliefs and aspirations.
7. **Right to housing.** This pertains largely to urban land reform and public housing.
8. **Right to healthcare.** This ensures the availability and accessibility of medicines, the establishment of the Philippine Health Insurance Corporation (PhilHealth) and the enactment of the Magna Carta for Disabled Persons of 1992 (RA 7277) and the Universal Health Care Act of 2019 (RA 11223).
9. **Women's rights.** This provision paved the way for several landmark laws passed since the 1990s, making rape a crime against persons, punishing sexual harassment and domestic violence and, in other ways, promoting the gender-responsive implementation of the Constitution, including the Magna Carta of Women of 2009 (RA 9710), the provision of the gender and development budget, and the Safe Spaces Act of 2019 (RA 11313).

10. **Right to land.** This ensures the right of farmers to own the land they till.

Through promulgation of the 1987 Constitution, and the institutional reforms it included, the Philippines undertook re-democratization through protection and assertion of civilian supremacy and control over the armed forces. The seventh design area covered in this assessment examines the performance of the Constitution in ensuring democratic governance and accountability of the security sector, as well as the extent to which the Constitution guides the relations of the security sector with the broader state and society. The security sector is defined for the purposes of the assessment as including the core security actors or uniformed services, such as the military, the police, and intelligence and paramilitary organizations. In particular, the Philippine security sector for this report comprises the Armed Forces of the Philippines, the Philippine National Police (PNP), the National Intelligence Coordinating Agency, the Philippine Coast Guard and paramilitary organizations such as the Citizen Armed Force Geographical Unit.

The eighth constitutional design area assessed examines how well the economic provisions in the Constitution have been realized. This includes examining whether or not a system of wealth redistribution, balanced with reasonable protection of the right to property, as envisaged in the 1987 Constitution, was implemented through required institutions and legislation. In the case of the Philippines, years of protracted insurgency as a result of labour and agrarian unrest provided an impetus for constitutionalizing labour justice and agrarian reform as explicit state policies. Reactions to centuries of foreign rule, on the other hand, explain why the 1987 Constitution is restrictive on many economic provisions and imposes citizenship qualifications for ownership of land and public utilities and of the right to exploit the country's natural resources. Assessment of this institutional arena then proceeds by examining how the Constitution's economic provisions have facilitated democratization by widening access to economic opportunities.

Finally, the ninth area of constitutional design assessed deals with the Constitution's provisions on citizenship and its implications for equality. From a legal point of view, to be a citizen is to be recognized by a state as one of its subjects, whether native (i.e. natural-born) or naturalized (i.e. following a legal process of acquiring citizenship). However, this legalistic conception of citizenship may not be able to fully capture the realities faced by citizens. Therefore, being a citizen and citizenship can be viewed more expansively—that is, how citizens and being a citizen promote democracy, social justice and human rights; how decentralization as a framework of governance further expanded the notion of citizenship; and how citizens are able to take advantage of economic, and even political, opportunities to their benefit.

4. Key findings of the constitutional performance assessment

This section presents a summary of the key findings in each of the constitutional design areas enumerated in the previous section, based on the extensive background papers prepared by the project team members for the different areas. Each constitutional design area was assessed in accordance with the methodology developed by International IDEA, with some modifications to fit the Philippine case specifically, beginning with reference to the internal and external criteria identified and followed by an evaluation of the ‘thin’ and ‘thick’ compliance of the design areas with these criteria.

Performance of electoral processes and institutions

One of the internal criteria of the 1987 Philippine Constitution was the re-establishment of representative democracy following the martial law period under Marcos. As such, this part of the assessment looks at whether or not the Constitution’s goal of promoting regular, contested and inclusive elections has been met. The assessment then looked at thicker compliance with the Constitution in this design area, related to the external criteria of democratization, decentralization, social justice and human rights, peace and conflict resolution, and economic development.

To promote regular and peaceful transfers of power, the Constitution set a timeline for regular elections to the national government. In terms of thin compliance with the Constitution, elections have largely been held on time since the ratification of the 1987 Constitution. Elections for President, Vice-President and Congress have regularly been held on the second Monday of May, as called for. Party-list elections have been held to fill seats for sectoral representatives since the election of 11 May 1998, following the passage of the Party-List System Act. Declarations of failures of elections have also steadily decreased from 1988, when failures were declared for entire provinces, to the most recent election in 2019, when no failures of elections were declared. The dates for *barangay* and Sangguniang Kabataan (SK, youth council) elections have been altered several times, although these are not set by the Constitution. The regularity of elections has allowed for peaceful transitions of power to legitimate representatives, demonstrating thin and thick compliance with provisions on the time and manner of elections (article VI § 8; article VII § 4) that promote broader trends of democratization.

The Constitution also sought to provide for greater inclusivity (Dahl 1971) in elections, particularly related to voter enfranchisement. The average voter turnout in the Philippines has been approximately 72 per cent since 2001, with no notable differences among the

national, midterm and *barangay* elections. This is high compared with the turnout in established democracies, which is in line with the Constitution's goal of promoting inclusive elections.

However, article V § 2 of the Constitution states that 'The Congress shall also design a procedure for the disabled and the illiterates to vote without the assistance of other persons. Until then, they shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate to protect the secrecy of the ballot.' No law instituting such a procedure has been enacted. However, assistance for illiterate persons and persons with disabilities with casting their ballots is mandated by the Omnibus Election Code. Nonetheless, there is neither thin nor thick compliance with this constitutional provision for ensuring the inclusion of persons with disabilities and illiterate persons, limiting the full inclusivity of elections.

The 1987 Constitution was also designed to promote greater inclusivity and fairness in elections by limiting the influence of political dynasties, loosely defined as families that occupy multiple electoral positions simultaneously and/or persistently over time. Although the Constitution, in article II § 26, seeks to prohibit political dynasties, a law has yet to be passed to enact this provision or to even legally define what political dynasties are, demonstrating that there is not even thin compliance with the Constitution on this issue.

The Sangguniang Kabataan Reform Act of 2015 includes as a qualification for an SK official, whether elected or appointed, that they 'must not be related within the second civil degree of consanguinity or affinity to any incumbent elected national official or to any incumbent elected regional, provincial, city, municipal, or barangay official, in the locality where he or she seeks to be elected'. Although this provision covers only SK officials, if an evaluation of the SK Reform Act reveals that the prevalence of dynastic candidates has been reduced, this wording may also be applied in formulating a more encompassing anti-dynasty law in the future.

The SK notwithstanding, the problem of dynasties persists. Mendoza et al. (2012) found that 70 per cent of district representatives in the 15th Congress (2010–2013) belonged to a political dynasty, the persistence of which has been found to coincide with lower standards of living and lower legislative productivity. Querubin (2016) also found that the three-term limit that the 1987 Constitution introduced for local government officials and members of the House of Representatives failed to reduce the probability that a family member will occupy the seat of a term-limited member of Congress, mayor or governor. In addition, dynasties have also been found to be prevalent among party-list representatives, with about 19 out of 61 party-list seats (Tomacruz 2019; Gavilan 2019) filled by representatives with relatives currently or previously in government.

With respect to the party-list system in general, although the first party-list elections were successfully held in 1998 following the passage of the Party-List System Act of 1995, five different electoral formulas have been used for the party-list system (Kimura 2013), all of which have also been found to yield significant disproportionalities between votes garnered and seats obtained (Teehankee 2019). Therefore, there is only thin compliance with the provisions on the party-list system (article VI § 5[1–2]).

In line with the 1987 Constitution's goal of restoring competitive elections, article IX[C] §§ 6 and 10 of the 1987 Constitution states that:

A free and open party system shall be allowed to evolve according to the free choice of the people . . .

Bona fide candidates for any public office shall be free from any form of harassment and discrimination.

With respect to competitiveness, there is reasonable *ex ante* uncertainty in the results of elections, with opposition candidates winning in three out of the five presidential elections under the 1987 Constitution. However, a disturbing trend of harassing the political opposition remains, particularly in the periods 2004–2010 and 2016–2019 prior to the election period fixed by article IX[C] § 9 (Freedom House 2019). Vote buying also remains prevalent (Canare et al. 2018), undermining true competitiveness. Therefore, there is only thin compliance with article IX[C] §§ 6 and 10. In addition, the goal of ensuring that bribes are not used during elections under the external criterion of economic development was not met.

The Philippines can procedurally be considered a representative democracy, demonstrating progress towards the internal criteria of the 1987 Constitution, although elections are not as competitive as envisaged in the 1987 Constitution, inhibiting thick compliance with the goal of deepening democracy. In terms of the other external criteria applied in the performance assessment, the following findings stood out. On decentralization, local elections, except at the *barangay* level, are conducted regularly, furthering decentralization, although a noticeable proportion of local seats (13 per cent in 2019) were contested by only one candidate (Go 2019), which suggests that elections are not competitive in these areas. In terms of social justice, vulnerable communities, such as illiterate persons, persons with disabilities, persons deprived of liberty and indigenous peoples, receive special assistance to facilitate voting on election day, but not to the extent mandated by article V § 2 of the 1987 Constitution. In terms of peace and conflict resolution, elections have become more peaceful, with 2019 reporting the fewest failures of elections and election-related violence cases, although violence against elected officials continues to be perpetrated, even outside election season. Lastly, in terms of economic development, economic disparities significantly impact on candidacy because of the dominance of political dynasties, as well as on voting behaviour because of the prevalence of vote buying. Overall, although electoral procedures set up by the 1987 Constitution have operated regularly since its ratification, there remains room for improvement in terms of ensuring that elections are competitive and inclusive.

To strengthen the performance of electoral institutions and processes in the country, the following recommendations for constitutional reform are made, based on the analysis conducted for this assessment:

1. Although local elections have been held regularly, *barangay* elections are frequently delayed by acts of Congress inhibiting performance in accordance with the external criterion of decentralization. Institutionalizing the schedule of *barangay* and local elections in the Constitution could inoculate them from congressional interference.
2. The political opposition has experienced harassment by the national government under multiple administrations under the 1987 Constitution. Although this problem cannot be solved through institutional design alone, a statement of the rights of the political opposition in the Constitution could serve as an additional protection for competitiveness in elections. In addition, a clear articulation of the role of the political opposition (Nussenberger et al. 2010) could be added to article IX[C] § 10 towards realization of more competitive elections.
3. The party-list provision should be abolished in the Constitution and, instead, a multi-member representation of Congress should be established in which a certain percentage is reserved for those running under a better-designed proportional representation system.
4. Considering the inability of Congress to pass a law defining political dynasties, as mandated by article II § 26 of the 1987 Constitution, such a definition may need to be added as an amendment to this provision so that it can be enforced. The definition

of a dynastic candidate provided in the SK Reform Act of 2015 could be adopted, subject to a review of the effectiveness of the law in reducing the prevalence of dynastic candidates.

In the area of legislation, the following recommendations resulted from the performance assessment:

1. Although reviews of the electoral provisions in the Magna Carta for Disabled Persons have found that there is a need to improve the implementation of non-geographic special voting precincts for persons with disabilities and senior citizens, it remains beneficial that the provision of these special precincts is legally mandated. Special precincts for other sectors with special needs and traditionally low voter turnout should also be institutionalized beyond their respective COMELEC resolutions.
2. The prevalence of uncontested local elections may also be addressed by a party system reform law that provides state funding for political parties, thereby allowing them to be an alternative to political dynasties as a source of recruitment to public office.

Assessment of legislative–executive relations

The assessment of legislative–executive relations indicates that the Constitution provided institutional mechanisms to ensure the separation of powers and checks and balances in line with the internal criteria identified, but some of these design features have not necessarily yielded optimal results. There is thin compliance with the Constitution in terms of establishing the institutions that support its internal goals of reinstating the separation of powers and checks and balances that have brought back democratic institutions to the country post Marcos. However, weak political parties, unintended consequences of institutional design, pork-barrel politics and other informal practices have also shaped legislative–executive relations negatively, undermining the realization of a stronger legislative branch vis-à-vis the executive.

The overall goal to de-Marcosify the country’s political system through the Constitution has resulted in bringing back and enhancing the separation of powers that was present in the pre-Marcos charter (1935 Constitution). The republican idea that no one branch should be more powerful than the other was strong in response to Marcos, who exercised legislative powers and closed Congress.

But even as Congress legislates, the President can certify a bill as urgent and can legally call Congress for a special session. According to Pano (2014: 64), one in five bills has been certified by the President as urgent. Over the years, this has been used by the executive to hasten the enactment of urgent bills, especially in times of crisis situations when there is heightened public clamour for a law that can address them. Moreover, Congress, voting separately, can override the presidential veto by a two-thirds vote. Since 1987, Congress has not exercised this power (Kasuya 2009) because legislators are usually aligned with the President’s coalition.

Although Congress scrutinizes the budget, it is the President who can disburse the budget and initiate a line-item veto, making her or him very powerful (Chua and Coronel 2003: 46). The Constitution also disallows Congress from adding to the budget submitted by the President; it can only realign allocation.

Checks and balances between the two branches are established through the power given by the Constitution in article XI to impeach a sitting President in the House of Representatives, with the Senate acting as the court where the chief executive is tried. The Constitution also makes explicit the congressional power of investigation in aid of legislation. This task is

necessary to perform legislative oversight of the executive. The President also has appointive powers, which pass through the Commission on Appointments, a bicameral body. Although there have been rejections in the past, the Commission on Appointments normally approves presidential appointees, except in some controversial cases. This has affected careerism in the bureaucracy.

The above-mentioned institutional design, coupled with the lack of mature political parties that exist in modern democracies, has been attributed to the rise of a strong executive in the Philippines. Because parties are active only during electoral periods, coalitions are usually established by the one-term President once he or she assumes power. Relatedly, coalitions are formed through pork-barrel politics. In post-EDSA legislative politics, this is an important tool used by Presidents to wield power over Congress. Because the President facilitates the budget release, he or she is able to wield power over the realization of projects earmarked by legislators. Moreover, the party-list system law that has been established under a presidential system has allowed the rise of parties run by politicians, some of which support or are also co-opted by the President's coalition in the House of Representatives.

During committee hearings, cabinet members or their representatives are key resource persons who respond to legislators' queries over technical provisions contained in legislative bills. During plenary deliberations, key executive officials are present to assist the particular legislator sponsoring the measure on the floor. This situation is particularly ubiquitous during budget deliberations. Because government agencies have the necessary data that can justify the budget allocation, their technical support lends much assistance to legislators in charge of defending their budget on the floor.

There are also transparency and accountability deficits in governance in the Philippines that warrant a serious review of processes. The rules of both the Senate and the House enable access to the public to committee hearings and plenary deliberations; however, there are limits to this—caucuses and executive sessions are not open to the public. Overall, access and transparency mechanisms need to be put in place so that Congress is perceived as inclusive and participatory.

This assessment indicates that the Constitution provided institutional mechanisms to promote the separation of powers and effective oversight on the exercise of executive power, but some of these mechanisms have not necessarily yielded optimal results. The following revisions and amendments to the Constitution are recommended to help address some of the issues raised in this assessment:

1. The party-list provision in the Constitution should be abolished and, instead, a multi-member representation of Congress should be established in which a certain percentage is reserved for those running under a better-designed proportional representation system.
2. The Commission on Appointments should be considered not a separate entity from the House of Representatives and the Senate but an ad hoc bicameral body to reduce expenditure. The Commission on Appointments could be made a more transparent body that allows for scrutiny of presidential appointees.
3. The appointive powers of the President should be limited to at least undersecretary level to enhance careerism in the bureaucracy. This would limit the ability of the chief executive to appoint so many executive officials and, therefore, prevent patronage and the consolidation of too much power in one branch of government.

As indicated in the findings of this assessment, the lack of disciplined political parties and the presence of political dynasties provide the President with much leeway in co-opting Congress; therefore, the following legislative remedies could be enacted:

1. A political party reform law could be passed that incorporates a campaign finance reform, a definition for turncoatism and the institution of party platforms. Having these policies could help ensure party discipline and therefore prevent the dependence of legislators on pork-barrel politics for re-election.
2. The party-list system law could be abolished.

In view of the findings suggesting that congressional proceedings lack transparency and are reliant on the executive for technical support for legislation, the following interventions are recommended:

1. Budgetary support should be provided to make the proceedings of both Houses of Congress more transparent. These include proceedings in bicameral meetings, the Commission on Appointments, and the Legislative-Executive Development Advisory Committee (LEDAC).
2. The bureaucracy of the Senate and the House of Representatives should be strengthened and professionalized by establishing a legislative career system.
3. Specific and clear rules on the bicameral conference committee should be established to ensure transparency and proper documentation of proceedings.

The performance of the judiciary

In the post-1946 and Marcos periods, ‘political patronage and interference threatened, and in the latter period actually overrode the independence of the judiciary’ (Atienza and Baylon 2006: 355). When Ferdinand Marcos was overthrown in 1986 by people power, the pursuit of a strong and independent judiciary began again. The 1987 Constitution considers the judiciary as an equal branch of government and contains innovative provisions that are aimed at enhancing the independence of the judiciary, especially the Supreme Court (article VIII).

To assess the judiciary using the internal criteria of strengthening the judiciary and its independence as a check to the two other branches of government, it is important to examine whether or not courts have been formed and, if they are operating, the manner in which judges and justices are selected and if this conforms with the Constitution, and whether or not reforms in the judiciary instituted in the Constitution have been implemented. It was found that there is thin compliance in all of these areas, but not thick compliance, particularly in terms of whether or not the judiciary has the power to ensure the implementation of the Constitution in line with its intent and the rule of law.

The courts called for by the 1987 Constitution have been formed and they generally attempt to operate according to the Constitution, therefore demonstrating thin compliance. The regular courts in the integrated judicial system, together with the special courts and quasi-courts, comprise what is called the total Philippine court system. In selecting and appointing justices and judges, the JBC is tasked with overseeing and facilitating this function and it has been observed to follow the minimum requirements stated in the Constitution. Members of the judiciary who participated in the FGDs, however, note that, in reality, the JBC is not completely immune from political influence. Because of this, some members of the judiciary find the qualifications of some shortlisted or appointed members of

the Supreme Court and other courts questionable. In terms of the general reforms introduced in the 1987 Constitution, these are already formally instituted although there are problems in enforcement; therefore, there is only thin compliance. Substantial fiscal autonomy is still lacking and, despite the constitutional powers of the Supreme Court in terms of judicial review to check on possible excesses of the two other branches, it has exercised such power a few times, but it became the subject of retaliation from the two other branches, which will be explained further in examining the external criterion on democratization, particularly in relation to the question of the independence of the judiciary.

As far as the external criteria are concerned, in terms of the judiciary's performance in relation to democratization, the assessment examined the independence and competence of the judiciary; its role as an independent arbiter in intragovernmental conflicts; the fair representation of the Philippine population in the judiciary corps; the courts' competence, effectiveness and accessibility; and the accountability mechanisms put in place. The assessment showed that there is only thin compliance in most of these areas.

Ideally, the perception is that judges interpret the law in an independent and impartial manner. However, the judiciary is also a political institution. Judicial independence is hampered by the fact that judges and justices are political appointees and are therefore perceived to be indebted to the members of the executive branch, according to members of the judiciary who participated in the FGDs. In terms of being an independent arbiter in intragovernmental conflicts, if cases are filed in the Supreme Court, the Court acts on them and interprets the applicable constitutional provision or law. Since 1987, the Supreme Court has made use of its power of judicial review with regard to actions of the executive and legislative branches. However, by exercising such power, it has become the target of both branches of government. The impeachment and conviction of Chief Justice Renato Corona by the Philippine Congress and the removal by the Supreme Court itself of Chief Justice Maria Lourdes Sereno because of a quo warranto petition by the Solicitor General has had a chilling effect on the members of the judiciary, as well as the legal profession. The lack of respect on the part of legislators and some members of the executive branch, including the current President, making the judiciary somewhat 'subordinate to other branches of government' and losing its 'moral ascendancy' (Gatmaytan 2017: 205), also weakens the perception of an independent judiciary.

Philippine courts are facing difficult conditions that affect their competence and effectiveness. The societal sources of delays, court system delays, delays caused by court-related agencies, judge-caused delays and lawyer-caused delays are some of the problems mentioned by members of the judiciary, prosecutors and other lawyers who participated in FGDs for this assessment, as well as reported in other literature (Atienza and Baylon 2006: 369–71). Although courts are supposed to be accessible for all, and there are efforts to make them more accessible, people from lower socio-economic classes are significantly disadvantaged because of various fees and costs and lack of education and awareness on the law and judicial procedures. Those with disabilities also face difficulties with the lack of in-house facilities and translators to assist them. This inhibits thick compliance with the larger aim of greater access, representation and democratization.

Given the requirements for appointment to the Philippine judiciary, particularly at the top levels, justices and judges do not fairly reflect the population in terms of socio-economic background, education and age, as they still come from the more educated, older and higher socio-economic strata of the Philippine population. Therefore, there is not much compliance here. The requirements in the Constitution and other laws for certain specialized skills and years of training and practice in the legal profession, as well as the manner and process of selection, therefore limit the courts' representation function, which is part of the democratization criterion relied upon in this assessment. The external criterion of representation, defined in terms of whether or not the members of the judiciary corps,

particularly the justices and judges, fairly reflect the Philippine population, does not seem to be easily applicable to the judiciary compared with the legislature and executive branches. However, the assessment also noted that the judiciary has become more proactive in trying to encourage more women to apply for court positions and make the judiciary more accessible to different sectors of the population, although there are still limits in terms of accessibility, as will be seen in the assessment of the criterion of social justice, human rights and gender equality.

On the other hand, there appears to be thicker compliance on court decisions and procedures supporting the identified external goals of greater decentralization and regional autonomy in the Philippines, particularly in interpreting local autonomy issues. Courts have a tendency to favour autonomy and local governments. One recent favourable decision for local governments and greater autonomy is the Supreme Court's interpretation of the 1991 LGC's provision that LGUs receive a 40 per cent share of national taxes. Since 1991, this has been interpreted to mean that LGUs will receive a share of revenues collected by the Bureau of Internal Revenue (BIR), leading to problems around the insufficiency of funds and the unfair formula, disadvantaging provinces and municipalities, which bear the brunt of the devolved services. However, in a July 2018 decision (G.R. No. 199802 and G.R. No. 208488), and affirmed in April 2019, the Supreme Court now defines 'the just share' of LGUs based not only on national internal revenue taxes but also on 'national taxes'. This will take effect starting in 2022.

In assessing the external criterion of social justice, human rights and gender equality, there is thin compliance when it comes to the representation of women, minorities and other sectors in the judiciary, as well as in the promotion of these principles in court decisions, policies and programmes. With the creation of the PAO, there are more opportunities for indigent persons to be represented in courts, as they do not have to pay for a lawyer, but PAO lawyers are also overburdened in terms of cases and clients. Court decisions are based on evidence, even if courts are guided by the Constitution and other laws promoting social justice, human rights and gender equality. However, since 1987 the Supreme Court has made decisions that have favoured marginalized sectors, workers, civil society and indigenous peoples. Policies and programmes of the Supreme Court are trying to address the provision of more access to the court and justice system, especially for indigent persons, so that they can be more ably represented in courts. However, there is still much to be done to make the courts accessible for all, regardless of status in society.

On peace and conflict resolution, the judiciary promotes mediation, alternative dispute mechanisms and pretrial hearings that do not require formal court proceedings, not only to avoid the clogging of the courts but also to encourage alternative means of conflict resolution. Based on some of the FGDs, in areas where there is insurgency, cases may be filed against rebels for ambushes and skirmishes; however, because complainants and the accused do not attend hearings, these cases are often dismissed. There is therefore very thin compliance for this criterion.

Finally, on economic development, courts do not tend to favour certain sectors in decisions affecting the economy nor do they facilitate or hinder economic development and equity. Courts usually decide on the basis of evidence and cannot be considered to be biased towards only one sector. The judiciary has introduced reforms to address some cases of corruption within the courts, as well as public perceptions that those in the courts are corrupt; there is therefore thin compliance with this subcriterion. However, whether or not the courts prevent or hinder economic development may not be a very relevant question.

It seems that the underperformance of the judiciary in certain areas does not require major changes in the provisions of the 1987 Constitution. Participants in the FGDs, however, noted that some reforms could further improve the judiciary in terms of its functions. These are as follows:

- increase the number of Supreme Court justices from the current number of 15 to reflect the growing Filipino population, as well as the increasing caseload;
- strengthen the provision on and ensure genuine fiscal autonomy of the judiciary to strengthen the separation of powers and the perceived and real independence of the judiciary, as well as prevent higher politicization; and
- increase involvement on the part of the Supreme Court justices and other judges in the process of the selection and appointment of justices and judges and, conversely, decrease the involvement of politicians in the JBC, subject to checks and balances from other branches and sectors, to increase the independence of the judiciary.

The assessment also suggests that reforms are necessary outside the Constitution. These would support the finding of the assessment that the goal of developing a strong and independent judiciary vis-à-vis the two other branches of government also depends on the two other branches having respect for the judiciary and the principle of an independent judiciary. These reforms mostly come in the form of ordinary legislative and administrative reforms, not only within the judiciary but also in the other branches that affect its performance. In the area of legislation, the following reforms are recommended:

- increased budget appropriations for the judiciary to make it more efficient and responsive;
- create more courts, especially in rural areas, with sufficient infrastructure and additional positions for judges and court personnel proportional to the population to increase responsiveness and improve the access of the population to the courts; and
- increase financial help for those wrongfully convicted, especially indigent persons, in the spirit of social justice.

Recommended changes to the appointment process for judges and justices to respect the independence of the judiciary and allow the courts to perform their tasks more effectively and efficiently are as follows:

- greater transparency in the selection process for judges and justices, for example, by releasing the results of the psychological examinations to applicants, to make the process more transparent and less politicized;
- swifter processing of applications and filling of vacancies in courts to ensure that courts have judges and can work to address workload issues;
- more decentralized filing of applications so that not everything has to be completed in Manila; this might also encourage qualified applicants outside Manila to apply for court vacancies in their own areas; and
- more regulation of politicians and other interest groups to prevent them from exerting undue political influence in the process of judicial appointments.

The following changes within the judiciary are also recommended:

- simplification of the rules of procedure to make operations more efficient;
- stricter monitoring and reprimanding mechanisms for erring justices, judges and personnel to increase accountability and transparency;
- improved coordination with other government agencies involved in the overall justice system, for example the PNP, Post Office and Bureau of Jail Management and Penology, to make processes more efficient, transparent and accountable;
- introduction of provisions to make courts and proceedings more accessible and to provide assistance to indigent persons, persons with disabilities and other minorities; and
- the provision of further information campaigns on the rules of court and rules of procedure, aside from the current much-improved website, to enable citizens to become more familiar with the judiciary, the courts, processes and procedures, for greater transparency and accountability.

The performance of accountability institutions

The 1987 Constitution is a constitution of reform. To ensure that the country never again falls into dictatorship and tyranny, it has provided for the creation of institutions meant to ensure that sovereignty will always remain with the people. The Constitution, for instance, was explicit about the creation of independent bodies charged not only with the safeguarding of democratic institutions, but also with ensuring that the government is accountable to the citizens and the constitutional processes. Independent bodies—in particular, the CSC (charged with ensuring a merit-based bureaucracy), COMELEC (charged with safeguarding elections) and the COA (charged with safekeeping public funds)—exercise supreme powers within their sphere and are even regarded as equal to and coordinate with the three traditional branches of government. Hence, on the basis of their establishment alone, it can be said that there is thin compliance.

Analysing the performance of accountability institutions with regard to their external facets, such as widening democratization and equitable access, however, entails examining the extent to which institutions have facilitated equal access to public office and how the right to suffrage has been secured. Laws are in place to ensure that elections take place on a regular basis, that only those who meet the qualifications can hold public office and that officials who exceed their bounds are held accountable. Constitutional bodies have adhered to the guidelines set by the Constitution and statutes with respect to elective and appointive officials; however, independent bodies cannot impose what does not exist, nor bar what is not prohibited under existing statutes.

Unfortunately, institutional reforms deemed to have the widest sociostructural implications have yet to be undertaken. For instance, the Constitution prohibits the entrenchment of political dynasties but left to Congress the task of passing an implementing law defining what dynasties are. Beyond legislation covering local youth councils (SK), no law prohibiting political dynasties has been enacted. Moreover, even if a comprehensive anti-dynasty law is passed in the near future, it may apply only to local elective positions as no requirements with regard to property, education or pedigree are imposed for elective positions specified in the Constitution. Although there are term limits for elective positions, there is no bar to successive re-election after a single term interim. Out-termed incumbents

are not barred from competing for other elective positions, making it easy for powerful political families to proliferate and establish turfs.

There is also thin compliance with respect to guaranteeing equal access to public office, based on how existing laws have paved the way for the participation of sector-based and local parties in the electoral arena. The Constitution stipulates that 20 per cent of members of the House of Representatives should be elected through a system of proportional representation of registered national, regional and sectoral parties or organizations. However, whereas the Party-List System Act (RA 7941) contemplated a system of representation for the politically under-represented and economically marginalized, vague provisions constrained the Supreme Court in 2013 to rule that national and regional parties need not represent the marginalized and under-represented, effectively allowing large political parties to participate in the party list through their sectoral wings. The decision also clarified that only a majority of members need to belong to sectoral groups; their nominees need not necessarily be members as long as they have a track record of advocacy in that sector.

Other than Republic Act 7941 and the Omnibus Election Code, no strict policy governs political parties. As a result, political parties are reduced to loose agglomerations whose existence depends on the incumbent President or the most viable presidential contender.

There is also a need to address the limitations under existing laws. Regarding the exercise of the right to suffrage, for instance, laws are in place to ensure a level campaign environment for candidates and to afford voters unfettered opportunities to subject candidates to scrutiny. There are laws governing print and media advertisements, as well as restrictions on the amount that can be spent on election campaigns. However, in practice, campaign activities are difficult to monitor and laws are not strictly enforced.

With respect to the civil service, on the other hand, there are rules against nepotism but they do not cover confidential positions. Moreover, although, as a general rule, entry to the civil service is based on merit and fitness, a requirement for competitive examinations does not apply to non-career service. All public officers and employees have a duty to disclose assets and relatives working in the government. However, this is generally carried out through self-reporting and, hence, may not necessarily provide a correct assessment of wealth or potential conflicts of interest.

In terms of efforts to ensure honesty and integrity in public service, a number of measures have been put in place to address graft and corruption. The anti-graft court Sandiganbayan, a product of the 1973 Constitution, was explicitly allowed to continue under article XI § 4 of the 1987 Constitution. The Constitution also provided for the creation of the Office of the Ombudsman to investigate public officials and employees. Subsequent legislative enactments have even expanded and modified the anti-graft court, but decongesting court dockets remains a challenge. The Ombudsman, on the other hand, despite being independent and accessible, is limited to being a watchdog and wields no power to reverse the actions of government offices.

Independent constitutional bodies play an important role not only in checking major institutions of power but also in safeguarding the deliberative processes in a democracy. However, although the independent commissions serve their constitutional mandates, it is obvious that complementary policies must be crafted because the real problem lies not with the provisions of the Constitution but with the integrity of individuals and the capacity of institutions to implement rules. The following reforms are recommended:

- pass an enabling law prohibiting political dynasties from participating in public office to ensure equal access to public service;
- pass a law strengthening political parties and a law reforming the party-list system towards genuine proportional representation as more optimal alternatives; and

- pass a law providing for mechanisms to dismantle private armed groups.

The performance of local governments

The 1987 Constitution aimed to decentralize governance and granted more autonomy for local governments. In terms of internal criteria, the 1987 Constitution's implementation of decentralization and local autonomy qualifies as thin compliance. Local governments have been formed and reforms in article X of the 1987 Constitution have been instituted. All levels of local governments have been formed and are operating based on the Constitution and other laws on local governments. Local elections are also regularly held every three years, although there have been instances when *barangay* and SK elections have been postponed, as described earlier in the assessment of elections. Most of the reforms to local governments stated in the Constitution have been instituted in terms of legislation. For instance, a new LGC, or Republic Act 7160, was passed into law in 1991 and was promulgated starting in 1992. In terms of the creation of two autonomous regions called for in article X, only one is currently operating, the ARMM. The original law creating an autonomous region and government in Muslim Mindanao was superseded by a new law in 2018, the Bangsamoro Organic Law (BOL), which created a stronger regional government and was approved in a plebiscite in 2019, with a transition BARMM government already in place. Meanwhile, two laws creating a regional autonomous government in the Cordilleras have failed to be ratified in the past.

Consistent with the assessment of the first constitutional design area of elections, the performance assessment of the external criterion of democratization shows that there is only thin compliance, particularly on whether or not local government officials are selected in a legitimate manner. Most officials are elected through regular and established procedures. However, the question of whether or not local elections are free and fair needs to be qualified because, in the absence of strong, disciplined political parties, elections in the country are very personalistic and expensive (Rivera 2016: 43; Hutchcroft 2019). Therefore, the wealthier, more popular candidates usually have more power and chances of success. More importantly, local political families or dynasties dominate elections. Accusations of vote buying, election-related violence and cheating during elections are also rampant.

Under the democratization criterion, local officials are generally expected to act responsibly and with accountability, following institutional mechanisms. However, not all local officials are viewed as responsive and accountable. For instance, although there are some exceptions, local governance performance in the ARMM, which has been replaced by the BARMM, has been characterized by 'a lack of accountability, absenteeism, and poor service delivery' (Stephens 2019: 219). Therefore, there is only thin compliance with the Constitution's mandate, supported by the LGC, for accountability of local officials, and the potential of LGUs to contribute to deepening decentralization and democracy is inhibited. The Department of the Interior and Local Government (DILG) has various monitoring and evaluation tools to track local government performance. The limitations of many of these efforts to make local government officials and LGUs responsive and accountable include the problem of scaling up and disseminating good practices across LGUs, as well as local accountability issues. As part of the performance assessment under democratization, the institutional mechanisms for the participation of citizens and groups in local governance were also examined. Institutional mechanisms for the participation of people, sectors and civil society organizations are in place. As Holmes (2016) and The Asia Foundation (2010) noted, there is already a critical mass of good governance practices in the country. However, not all mechanisms are followed or implemented in practice and the level of participation varies

across LGUs. Therefore, there is only thin compliance when it comes to institutionalization of mechanisms for citizens' participation in local governance.

Do local governments have sufficient powers and autonomy? The LGC has devolved significant powers and regulatory functions to LGUs. This has empowered most LGUs but also given them significant challenges. Therefore, thick compliance with the broader goal of empowerment is questionable at best. For one, most local governments have taken advantage of their new powers and functions to manage their locality or to craft policies that cater to the needs of the local people. However, the sufficiency of powers and functions also translated into an overbearing pressure for local governments to provide services that they did not provide before devolution, or do not have the capacity and capability to provide (e.g. local health sector management, school building programmes, and social welfare and development). The extent of service delivery is dependent on two factors, namely (a) the prioritization of the local government through the local chief executive and (b) the availability of resources to actually deliver the services, including the availability of technical expertise at the local level. In some cases, coordination problems with national agencies, as well as the continued dominance of certain national agencies, stifle the capacity of LGUs to deliver mandated services.

Given that many elite political families still dominate local politics, the promotion by LGUs of broader goals, such as social justice, human rights and gender equality, is weak, suggesting that the institutions as currently in place and operating are not achieving thick compliance with the internal and external criteria relied on in this performance assessment. Although many LGUs are increasingly crafting ordinances to localize national legislation on promoting the rights of women and gender equality, as well as the rights of senior citizens, persons with disabilities and other marginalized sectors, the representation of women, minorities and other sectors such as farmers and workers in LGUs is minimal. Even thin compliance as far as sectoral representation in the Constitution and the LGC is lacking; the Code-mandated sectoral representation in local legislative councils has not been realized in practice, largely because Congress has not passed an enabling law for the Constitution and the Code's call for sectoral representatives. This issue was also discussed earlier in the section 'Performance of assessment electoral processes and institutions'.

There is thin compliance in terms of promoting peace and conflict resolution. Provincial governments, through their Peace and Order Councils, conduct activities that seek to improve peace and order in their areas, specifically to lower crime rates and improve crime resolution rates (The Asia Foundation 2010). However, when looking at the annual Galing Pook Awards, which have recognized innovative practices by LGUs since 1993, there were only a few awardees in the area of peace and conflict resolution, even in the ARMM (Holmes 2016: 128; Galing Pook 2010). The capacity to promote peace is also affected by a number of factors, including the level of economic development, which will be discussed later; poverty of a locality contributes to insurgency.

The performance of LGUs in the promotion of economic development is variable, despite the provisions in the Constitution and the LGC (e.g. having the power to create their own sources of revenues and to levy taxes, fees and charges; being entitled to a share in national taxes; and having local development councils) that help them facilitate or promote economic development. For instance, as some local officials in FGDs conducted by this project noted, LGUs generally avoid raising taxes for fear of losing votes. Therefore, in terms of this criterion, there is still only very thin compliance. Although LGUs are given a corporate personality by the LGC, which enables them to transact with private firms, enter into loans and formulate policies that will control and manage the local economy, poorer units, with lower levels of economic activity, may not be viable for investors to enter into public-private partnerships. There is a lack of incentives for encouraging this investment. There are still LGUs that are dependent on the Internal Revenue Allotment shares from the national

government. The ARMM remains the poorest region in the country, with its per capita income equivalent to only 17 per cent of the national figure and only 6 per cent of that of Metro Manila in 2016 (Cabuay and Hill 2019: 168). Dynastic political structures that dominate many local governments, despite some progressive political dynasties, also limit political and economic competition, as well as economic development.

There is also thin compliance with eradicating corruption at the local level. The Constitution is clear about public office being a public trust. It is clear that corruption has an adverse effect on economic development and other services. As resources are scarce, especially for lower income units, the correct appropriation of funds to proper expenditures is of utmost importance. There is not much compliance at the local level in terms of matching personnel with available resources and responsibilities. The difficulties faced by LGUs are primarily concerned with the availability of resources. This means that political retrenchment, or on certain occasions rightsizing, may not be an ideal solution to local economic crises or difficulties. As some FGD participants attested, there are still politicians who reward political support by creating additional positions in the local bureaucracy and appointing relatives, friends and supporters, with these positions being unnecessary or duplicating the tasks of other offices. Of course, there are some exceptions (Belmonte 1998; Tapales 1998).

To deal with the factors affecting performance, this assessment has a number of policy recommendations. Some areas of the 1987 Constitution can be amended to help address some of the problems of local governments. These are as follows:

- ban or limit political dynasties by defining what a political dynasty is, to make elections more competitive;
- reform the party system by penalizing turncoats and mandating the development of some degree of a closed proportional representation system incorporating a ‘zipper’ or ‘zebra’ style in the list of party nominees, to ensure more female candidates in the House of Representatives, in combination with district representatives, as well as in the local *sanggunian* (local legislative bodies) elections, to make competition more programme based;
- create a provision allowing the formation of other regional autonomous regions out of provinces and cities that consider themselves judged by the DILG and other governments to be ready to assume additional responsibilities, in addition to the two autonomous regions named in article X of the 1987 Constitution; and
- strengthen the provision on regional and other local development councils so that their role is not only administrative but also more active in the economic development of their regions and localities.

Outside the Constitution, amendments to the 1991 LGC and other laws are also recommended to improve the performance of local governments:

1. To address the non-implementation of sectoral representatives in the local *sanggunian*, as mandated both by the Constitution and by the LGC, there is a need to amend the LGC to stipulate the process of selecting the three sectoral representatives or for the two Houses of Congress to pass other legislation stipulating the manner of selecting local sectoral representatives.
2. To address the lack of substantive representatives from among women, indigenous peoples and other sectors in local governments, particularly for elected posts, introducing some degree of a closed proportional representation system at the local

level incorporating a ‘zipper’ or ‘zebra’ style in the list of party nominees in local *sanggunian* elections may be an option.

3. To address fiscal problems or the inadequacy of fiscal transfers, the distribution formula in the LGC of 40 per cent shares in national revenues should be adjusted to ensure that provinces and municipalities, which have absorbed most of the devolved responsibilities and services, as well as poorer LGUs, can receive more shares than cities and more economically developed LGUs, which can be used for the delivery of basic services.
4. To balance the previous recommendation and to address too much dependence of some poorer LGUs on shares from national income and problems of non-performance of mandated responsibilities, some conditionalities can be attached to the fiscal transfers, including good governance performance scores and incentives for raising local revenues set by the DILG.
5. To support the recommendation of a possible constitutional amendment strengthening the mandate of regional and other local development councils to make them more effective conduits of regional and local development, the LGC can be amended to give the regional and local development councils more say in local planning, implementation and monitoring.
6. There could also be amendments to the LGC as well as taxation laws, to address vertical fiscal gaps because of, among others, inappropriate assignment of expenditure responsibilities to local units, a heavily centralized taxing scheme and a system that leaves little room for local governments to exercise revenue creation.
7. Although recommending that eligibility to become a local government official be about more than just the ability to read and write may be controversial, it may be possible to recommend that all elected and re-elected local officials, as well as new appointees, attend a mandatory set of training programmes to orient or refresh them about their responsibilities, as well as the introduction of new laws affecting their execution of responsibilities. The DILG, through its Local Government Academy, as well as other training units of the government and universities, should be able to accomplish this for all LGUs in the country.
8. There are proposals to consider *barangay* officials in the same manner as higher-level local officials, that is, they should receive a regular government salary instead of the current honoraria, to not only increase incentives but also indicate the greater professionalization expected of *barangay* officials.

The assessment findings also suggest that some of the problems with the performance of local governments largely lie with implementation of the legal framework, not the overall framework itself, and that a lot can be done to improve local governments’ performance through a number of adjustments that can be administrative in nature. These are as follows:

- greater coordination between national agencies, their regional offices and local governments in the delivery of services and performance of similar responsibilities;
- stronger implementation of accountability and transparency mechanisms;
- constant information dissemination and consultations by national government agencies such as the DILG and other concerned groups, such as universities and civil society, for all LGUs and local officials, not only about the LGC but also about other

relevant laws and proposed reforms (including constitutional change), as well as the skills training required at the LGU level, for example budgeting, preparing tax codes and project proposal making; and

- further dissemination of information and even skills training for citizens and communities, not only on livelihoods and other practical skills but also on knowledge in terms of basic laws of the country and their particular LGU, their rights and responsibilities vis-à-vis their local and national officials, particularly in demanding accountability and transparency, and voter education.

Assessment of rights

To prevent the reoccurrence of human rights violations such as occurred under the Marcos regime, for example extrajudicial killings and enforced disappearances, the 1987 Constitution introduced several new provisions on rights. Article XIII §§ 17–19 of the 1987 Constitution mandate the creation of a CHR. These provisions were implemented by Executive Order 163 by President Corazon Aquino. The CHR regularly records cases of extrajudicial killings, enforced disappearances and torture. Article III §§ 12 and 19 pertain to torture and Republic Act 9745 (Anti-Torture Act of 2009) provides the legal definition of torture. Article III § 15 deals with the suspension of the privilege of the writ of habeas corpus and Republic Act 10353 (Anti-Enforced or Involuntary Disappearance Act of 2012) provides the legal definition for enforced disappearances. Article III § 1 of the same stipulates that no person shall be deprived of life, liberty or property without the due process of law, but currently there is no legal definition for extrajudicial killings. The numbers of victims of these violations from 2009 to 2015, according to the CHR’s annual reports, are provided in Table 2.

Table 2. Victims of extrajudicial killings, enforced disappearances and torture, 2009–2015

Violations	2009	2010	2011	2012	2013	2014	2015
Extrajudicial killings	194	149	121	81	90	101	69
Enforced disappearances	42	123	28	14	15	5	*
Torture	32	136	66	71	82	60	70

Source: CHR Accomplishment Reports 2011–2015, < <http://chr.gov.ph/transparency-seal/>>

* Statistics on enforced disappearances are not included in the 2015 report.

A significant omission from these statistics are cases from the ARMM. Republic Act 9054, which amends Republic Act 6734, mandates the creation of a Regional Human Rights Commission (RHRC) for ARMM separate from the CHR. The ARMM Human Rights Commission Charter (Muslim Mindanao Autonomy Act 288) was passed by the ARMM Regional Legislative Assembly in 2012. The 2016 Accomplishment Report for the ARMM does not specifically report on the number of victims of extrajudicial killings, enforced disappearances and torture but does report that there were 43 human rights issues pertaining to the right to life, 35 pertaining to the right to liberty and 9 pertaining to freedom from torture. In its 2015 Accomplishment Report, the ARMM RHRC documented 145 human rights cases but did not disaggregate these based on their nature.

Since the start of President Duterte’s term in July 2016 to June 2019, different statistics have emerged on deaths related to his war on drugs. The official number of deaths of suspects in anti-narcotics operations has been reported at 5,526, although the PNP has reported

6,600 deaths (Cabrera 2019). To contextualize, 1,329 drug-related homicides were reported in Thailand from February to December 2013 during Prime Minister Thaksin Shinawatra's war on drugs, of which 72 were attributed to the police (HIV/AIDS and Human Rights Program and Asia Division of Human Rights Watch 2004). In contrast, the PNP reported 1,790 drug suspects killed by the police in drug operations from 1 July to 3 November 2016, with an additional 3,001 killings of drug suspects attributed to unknown vigilantes from 1 July to 4 September 2016 (Human Rights Watch 2017).

All of this considered, there can be said to be thin compliance with constitutional provisions on human rights, as the agencies mandated to protect them have been established. However, thick compliance remains elusive in light of the prevalence of the same human rights violations that occurred under the Marcos regime.

Regarding data and information, 2016 saw the promulgation of the implementing rules and regulations of the Data Privacy Act of 2012 (RA 10173) and the issuance of an Executive Order on freedom of information, although issues of ambiguity remain with respect to their implementation. Lastly, the CHR itself has also become the target of harassment from the executive and legislative branches in recent years.

In terms of political rights, political participation in the Philippines remains high, despite problems with the conduct of elections. Freedom of association also remains strong in the country, with a vibrant, if under-regulated, civil society sector.

In response to the social and economic inequality and deprivation experienced under the Marcos regime, new provisions were also added to the 1987 Constitution that mandated the state to provide a number of social services. There is thin compliance with these provisions as agencies have been established to address the rights to healthcare, housing and land. However, thick compliance remains elusive as vulnerable sectors remain disadvantaged in terms of their access to these services, and stark economic inequalities remain prevalent in the country.

Lastly, policies for women include the regular incorporation of a gender and development portion in the national budget, the Magna Carta of Women of 2009, the Responsible Parenthood and Reproductive Health Act of 2012 (RA 10354) and a law against catcalling passed in 2019 (RA 11313 or the Safe Spaces Act).

There is also thin compliance in the advancement of women's rights. Although landmark laws protecting women have been passed, they remain one of the vulnerable sectors in the country. Past assessments of the agrarian reform programme point to its failure to alleviate the plight of its beneficiaries because of inconsistent provisions and, therefore, thin compliance with the provision on the right to land.

Although several institutions have been established to address inequalities in the delivery of housing and healthcare services, problems still exist in implementation (e.g. budgetary constraints and lack of coordination with affiliated agencies and local governments). As a result, the targeted beneficiaries of these institutions face difficulties in accessing these services, indicating only thin compliance with respect to constitutional provisions on the right to healthcare and housing.

The policy recommendations that emerged from this assessment cover constitutional reforms and amendments and also the areas of legislation and implementation.

The following are suggested constitutional amendments:

1. To address enforced disappearances and political prisoners, more specific wording on the provision against arbitrary detention should be explored to prevent people from being detained on trumped-up charges or at least limit the length of such detention.

2. Because of their prevalence and persistence, a new mechanism for the hearing of cases of extrajudicial killings and similar human rights violations, such as a separate court, may be needed.
3. An affirmative action provision in the form of a quota of reserved seats in Congress for women should be included.

The following are proposed legislation:

1. Although significant strides have been made by existing freedom of information programmes, free access to government information from all branches of government should be institutionalized through a freedom of information act.
2. Internal displacement, due to both natural disasters and armed conflict, is a perennial problem in the Philippines (Bermudez et al. 2018). Therefore, there is a need for the formation of a policy on internally displaced persons that is responsive to the needs of those displaced by both natural disasters and armed conflict.
3. Delays in the provision of housing services have been attributed to the difficulty of navigating the large number of agencies mandated to provide these services (Gomez 2017). The regime governing the provision of housing services should be re-evaluated to clarify the mandates of the different agencies and to streamline processes.
4. A campaign finance reform law that supports female candidates in terms of training and electoral budgets should be instituted.
5. There should be a larger budget for the agriculture sector to ensure that farmers are given opportunities to enhance their competitiveness.

The following should be properly and strictly implemented:

1. Accessibility for the most vulnerable sectors of society must be a prime consideration in implementing social services. The provision in the Universal Health Care Act on not requiring the presentation of a PhilHealth identification card to avail of PhilHealth services is a welcome development.
2. The new human rights body for the BARMM under the recently ratified BOL (RA 11054) should maintain close ties with the Philippine CHR for the purposes of data reporting and management, among others.
3. In response to the negative perception of non-governmental organizations following their role in the Priority Development Assistance Fund scam and other controversies, the existing regulatory regime for civil society organizations should be re-evaluated to avoid the emergence of fictitious non-governmental organizations while maintaining a conducive environment for diverse forms of political participation.
4. The implementation of laws that support working women must be ensured so that more women are encouraged to find work and achieve their full potential.
5. Programmes that incentivize men to take on their share of caring responsibilities in the household should be encouraged.

The performance of the security sector

The 1987 Constitution has provided the necessary legal framework for democratic governance of the security sector. It explicitly provided for a clear division of responsibilities between different members of the security sector, as well as the establishment of a network of oversight and accountability institutions with the aim of re-imposing civilian supremacy over the military. However, existing research revealed that there are limitations in the capacity and effectiveness of these institutions, as well as in the faithful implementation of relevant laws. Civilian oversight over the security sector remains difficult because of the lack of capabilities, the politicization of this function and the lack of willingness to hold core security forces accountable. Therefore, although thin compliance in terms of setting up accountability institutions within the security sector can be observed, thicker compliance with the broader goal of exercising oversight is lacking. Finally, the lack of participation of and openness by all relevant stakeholders makes security sector reform unsustainable as it becomes the exclusive purview of a select and powerful group.

Since 1987, the Philippine security sector has gradually adopted democratic principles and submitted to civilian authority, demonstrating thin compliance with the mandate of the Constitution, with some exceptions. Democratic reform is also pursued by the Constitution through the establishment of institutions charged with civilian control over the military and other security services such as the Ombudsman and the CHR. Existing assessments of the quality of parliamentary oversight in the Philippines validated the observation that a robust legal framework and a clear institutional set-up are in place. However, the main problem lies in the quality of oversight, given the lack of effective ability and political willingness (attitude) to exercise oversight following the principles of good security sector governance. The weakness of the political institutions in the country make it difficult for them to implement their formal mandates.

The security sector has embarked on a modernization programme that has implemented professionalism as well as respect for human rights, the rule of law and other liberal democratic norms in pursuit and support of the internal and external criteria relied on in this assessment. However, there remain challenges to thick compliance in areas such as sufficient leadership oriented to the democratic oversight of the security sector by willing and capable officials from civilian institutions.

The 1987 Constitution provided for greater decentralization, which is widely supported by the security sector. Through the policies and institutions emanating from the Constitution, the security sector also cooperates and collaborates with local governments on conflict prevention. In this dimension, there is thin compliance, as indicated by the presence of peace-oriented policies. The sustained implementation of peace policies that aim to arrive at a negotiated settlement with other armed groups, however, remains a challenge. Failure to do so could undermine thick compliance.

The 1987 Constitution provided a strong foundation for the security sector's observance of various human rights. Moreover, it has guided the country's adoption of various international human rights treaties and conventions. The security sector has gradually accepted and imbibed these norms through security sector reform. Examples of reform include the creation of human rights offices within the military, the creation of multisectoral advisory boards on how to reform the armed forces, and capacity-building to monitor and evaluate the performance of the military's functions. Although conservative views are still present regarding gender equality, education and generational change might incrementally modify these views so that more inclusive perspectives are adopted, encouraging thicker compliance with the overall aims of security sector reform envisaged by the Constitution. An

explicit non-discrimination provision on the recruitment of members of the security sector should be formulated.

The 1987 Constitution has provided a clear and robust legal framework to guide the governance of the security sector in the Philippines. However, there are deep and serious gaps in the establishment of a strong institutional apparatus with enough resources and political leadership to breathe life into the constitutional provisions on the security sector. The following recommendations are proposed to address these gaps:

1. Security sector reform must undertake the transition towards capacity-building, institutionalizing good practices and engaging the wider society.
2. There should be a clear recognition of the role of informal norms and institutions that are embedded within the institutional and legal framework of the security sector, which undermine the supposed objective civilian control over the security sector provided by the Constitution (e.g. appointing retired military officials in critical civilian government agencies and institutions).
3. Effective implementation must match the objective of the Constitution of good governance in the security sector.

Assessment of the economy and labour

The economic plan conceived in the 1987 Constitution is both nationalist and protectionist. The Constitution also imposes a Filipino-first policy. However, the Constitution does not impose a policy of Filipino monopoly of the economic environment; instead, it strikes a balance between protecting local businesses and allowing the entry of foreign investments and services. Because the Constitution is expected to build ‘a just and dynamic social order that will ensure the prosperity and independence of the nation’, foreign investments are encouraged to provide employment opportunities, develop human resources and heighten exports.

Interestingly, bills granting corporate franchises take primacy over other national concerns submitted for deliberation at the lower house. Policies allowing for equitable access to economic opportunities for women, the elderly, single parents, persons with disabilities, and other marginalized sectors have been enacted but poor implementation reduces these efforts to thin compliance.

Decisions on work-related court cases provide a good gauge of a state’s redistributive policies because employment contracts are, by nature, contracts between unequal parties. The 1987 Constitution is widely regarded as unique in its emphasis on social and economic rights. The Philippine Labor Code (1974, amended in 1989 and renumbered in 2015) itself mandates that doubts in the implementation of labour laws should be resolved in favour of workers. The performance assessment shows that individual workers are more likely to win claims against employers, but largely with respect to issues that are of economic relevance to workers—compensation, workplace claims and illegal dismissal. In a sense, there is thick compliance in terms of efforts by courts to impose constitutional intent as a legal standard and strike a balance between the interests of workers and the interests of employers. Moreover, economic protection seems to be limited to workers in the formal sector or those covered by employment contracts.

The Constitution mandates as a state principle the promotion of comprehensive rural development and agrarian reform in order to promote a just and dynamic social order as a larger goal. The Constitution mandated the pursuit of an agrarian reform programme as an internal criterion and as a way of concretizing social justice. Article II § 21 makes it state

policy to ‘promote comprehensive rural development and agrarian reform’. Meanwhile, article XIII § 1 puts Congress to the task of giving the ‘highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good’. This includes the crafting of laws that will govern the distribution and disposition of agricultural landholdings, subject to reasonable retention limits and just compensation. However, although several laws were passed to breathe life into the agrarian reform provisions in the Constitution, the impact of land reform on alleviating poverty has been only modest because of, among others, imperfect targeting and under-targeting of the poorest agrarian reform beneficiaries. Some even contend that the Comprehensive Agrarian Reform Program has made agrarian reform beneficiaries worse off and created an altogether new class of ‘landed poor’. Many farmers are pushed to sell or mortgage their lands to commercial farms or other beneficiaries. There is thin compliance given that land reform legislations were passed in pursuit of the constitutional mandate. However, these laws are detached from economic realities, especially in the rural areas where people have shifted their attention from farm ownership to overseas Filipino workers’ remittances as a vector of upwards social and economic mobility.

The Constitution called for the facilitation of the revenue-generating capacity of LGUs as engines of economic growth beyond the capital, consistent with local autonomy as an internal goal. Although the LGC allows local governments to enjoy fiscal autonomy, their taxing powers are limited. Local governments have also been overly reliant on their share in the national revenue—the internal revenue allocation (IRA) local governments receive unconditionally—and they exert little effort to generate their own sources of revenue. The IRA supposedly concretizes local governments’ ‘just share’ in the national taxes, as provided for in the Constitution. However, the IRA formula under the LGC ignores variations across local governments and therefore fails to address countryside inequality.

Despite limitations, clearly, government, across administrations, continues to institute policy reforms based on existing legal frameworks. A system of wealth redistribution balanced with reasonable protection of the right to property, as contemplated in the Constitution, is allowed to operate through legislative and institutional interventions. These interventions are admittedly inadequate. However, the fact that they can be amended or repealed also signifies that corrective mechanisms are possible, even from within existing legal and constitutional structures. As to what needs immediate fixing, the World Bank Enterprise Surveys on the Philippines are instructive:

- address the existence of an unspoken system in which firms are expected to bribe public officials with gifts in exchange for licences and permits;
- address the prevalence of crime, theft and disorder in the country, which compels firms to invest in the services of security agencies; and
- improve infrastructures—firms cited transportation and power outages as major business obstacles.

Assessment of citizenship and equality

In relation to the internal criteria, assessment of citizenship and equality focuses on the Constitution’s concept of citizenship and the mechanisms related to it. For this there is thick compliance. The 1987 Constitution has substantively provided a definition and is very clear on who can be considered a citizen of the Philippines. Similarly, the Constitution and two laws, namely Commonwealth Act No. 473 (Revised Naturalization Law of 1939) and

Republic Act No. 9139 (Administrative Naturalization Law of 2000), provide for and explain the process of naturalization. The concept of substantive citizenship is also recognized by the Constitution.

However, beyond the presence of legal standards on citizenship, there is thin compliance. Citizenship is not simply enjoying rights and privileges; it is more important that these rights and privileges are enjoyed by all, regardless of their background. Citizenship and equality from the lens of social justice and human rights have both hits and misses. On the one hand, constitutional provisions guarantee the promotion and safeguarding of the rights and privileges of citizens to achieve greater equality. On the other hand, the state has yet to fully realize the promise of these provisions since its adoption in 1987.

The 1987 Constitution also provided for means to encourage active citizenship in governance through sectoral representation in government policymaking bodies, from the national to the local level. Active citizenship can propel the democratization process as it facilitates the deepening of democratic values, such as equality, and encourages greater engagement in policymaking and decision-making. However, compliance with this provision remains thin. On the question of equal representation of citizens through sectoral representatives in national and subnational bodies, this is limited to specific groups of people. Access is limited to those who already have established connections with government officials and politicians.

On the matter of substantive and equal representation, the government primarily responds to the concerns forwarded by different groups of people through the enactment of legislation geared towards the promotion of welfare for certain sectors. These special laws specify particular, additional or derivative rights from those already expressed in the Constitution. The effective implementation of this special legislation varies from one law to another.

Another example of substantive and equal representation is when political leaders gather the consent of the people through a system of consultations. This is a way for politicians to gauge the consent of the people for possible policies or programmes that the government may want to enforce or implement (see Tapales 2003; Tordecilla 1997; Tumbaga 1997). However, the system might not be uniform across localities. Some citizens who are closer to the ruling political power may be consulted, whereas those on the other side of the bench may not be heard. Similarly, consultations may simply be used as a legitimizing tool for problematic policies and therefore may miss the point of promoting active citizenship on the one hand and equality among citizens on the other.

The Philippines operates under a decentralized framework. This means that LGUs have a significant amount of autonomy to decide and implement programmes at their levels. More than the devolving of powers and functions, local governments are given a more substantive role in the holistic development of their citizens. Does this kind of set-up promote active citizenship at the local level? In this area, there is considerable compliance, but not necessarily thick.

Decentralization facilitated the production of a sense of local citizenship, that is, active participation in local governance, following the opening of doors for citizens to be partners in managing local affairs. For one, local governments are the closest units of governance to the public (Atienza 2006; Brillantes 2003). Citizens see their local chief executives not simply through their formal political function but also using the politics of informalities, that is, at a more personal level of engagement (see Go 2016). However, the extent of participation is not uniform across localities, and internal political dynamics affect the quality and quantity of services received by citizens.

On whether or not the Constitution has provisions on protecting the economic interests of citizens and their ability to equally and fairly engage in economic activities, there is a clear thin compliance. Although there are protectionist provisions on ownership of corporations and business establishments and regulation of the entry of foreign investments in the

Philippines, the bureaucratic red tape has been a perennial problem in citizens' pursuance of economic activity. In addition, with the continuous price increases, the stagnated salary rates and a decrease in the real value of the peso, families find it harder to make both ends meet. In fact, of businesses and consumers, particularly in the lower-middle and lower classes, which comprise the bulk of the urban and rural population, it is consumers who experience a great deal of hardship in their quest for survival. The most the government can do is to create an environment in which citizens can realize a desirable quality of life. Maximizing profit takes primacy over local economic prosperity. In terms of economic development, therefore, citizens are not equal with regard to opportunities for improvement.

These observations are not definitive but rather provide a brief overview of what the condition of citizenship and equality is. The Philippines under the 1987 Constitution remains a work in progress. The implementation of the constitutional provisions on social justice and human rights and the national economy is yet to be fully realized. Some provisions require implementing laws, which Congress has yet to legislate. Although there are those that already have implementing laws, the actual implementation by the executive department is wanting, such as those in the area of labour, agrarian reform, housing and urban settlements, and human rights.

More than 30 years since its adoption, many of the promises of the Constitution have yet to be realized. Partly to blame is the nature of Philippine politics, which are centred on families and ties between patron-politicians and client-subjects (see Purdey et al. 2016; Rocamora 1998; Wurfel 1988). Equality remains an area of contention, especially in relation to questions of rights and privileges. Therefore, the following are recommended.

Through legislation:

- enact laws that will provide for the implementation of the inclusion of sectoral representations on the national and subnational special bodies and ensure that fairness, equality and proper representation are observed in the process of selection;
- amend and strengthen the relevant provisions of the LGC of 1991 and the laws creating the Department of Agrarian Reform and the Housing and Urban Development Coordinating Council; and
- enact an anti-discrimination law and other laws that may promote equality among citizens, which may include provisions to strengthen existing labour laws and Magna Carta laws for workers, medical professionals, scientists and the poor and marginalized.

Through implementation:

- address the issues around implementing the agrarian reform programme of the government and constantly review the implementing law to prevent possible circumvention based on current practices;
- address the issues around housing and urban settlements by ensuring that all LGUs develop their own comprehensive land-use plan and medium-term development plans; and
- address the issues around human rights, particularly in the treatment and handling of individuals by enforcement agencies, without prejudice or discrimination in terms of class, religion, gender and/or political affiliation.

5. Conclusions

This performance assessment has been guided by the goal of contributing empirically based assessments of the 1987 Constitution and recommendations to current debates about possible amendments to or even an overhaul of the Constitution. Overall, based on the assessment of nine constitutional design areas, there is only thin compliance with internal criteria used in the performance assessment. This means that many of the technical requirements in the Constitution have been met in terms of setting up mandated institutions, holding processes such as elections and enacting necessary laws and actions. However, thick or substantial compliance in terms of meeting the goals set in the Constitution is still wanting. Furthermore, some laws mandated by the Constitution have not yet been enacted; examples include a law specifying special procedures to allow persons with disabilities and illiterate voters to vote and a law defining political dynasties. Externally, although notable progress has been made, there is still limited or thin compliance in terms of promoting substantial democratization; decentralization; social justice, human rights and gender equality; peace and conflict resolution; and economic development.

Based on this assessment, many of the goals of the Constitution have not yet been substantially achieved. Elections are not yet truly free, open and competitive because of the presence of weak political parties, problems with election laws, such as the party-list system law and the dominance of political dynasties, personality politics and patron–client relations. Despite provisions that are supposed to strengthen the legislature and the judiciary vis-à-vis the executive branch, the executive, especially the chief executive, is still dominant. The Supreme Court has increased powers to be an independent body and has actually exercised its judicial review function several times. However, this performance of its constitutional mandate has made it, as well as individual members, the target of threats from politicians and their allies in the two other branches. Although there are exemplary LGUs that are able to deliver services and perform functions expected of them by the Constitution and the 1991 LGC, which significantly devolved powers, not all are able to do this; therefore, the goals of having strong local governments and achieving decentralization and local autonomy have not yet been fully actualized. Extensive rights enshrined in the Constitution have not been evenly implemented and respected. The accountability of institutions and officials remains a challenge and the independence of accountability institutions is sometimes threatened by other agencies. Civilian oversight of the security sector remains difficult to implement. Although the economy of the nation has been improving over the years, poverty remains a challenge and there is still no equitable economic development. There is still wide disparity across regions in terms of levels of economic development. Corruption remains a problem despite the many laws and other reforms introduced. Finally, despite having their rights

enshrined in the Constitution, Filipino citizens still lack equality in terms of participation and representation.

It appears that, when it comes to addressing the challenges identified, it is possible to combine amendments of the Constitution with the passage of new laws, amendments of existing laws, administrative reforms in specific agencies and stricter implementation of laws already in place to achieve many of the goals of the Constitution. In terms of what the performance assessment suggested for potentially needed amendments in the Constitution, the provisions which deserve attention are: the anti-dynasty provision and making it self-executing, and removing the party-list system and instead introducing closed proportional representation. These recommendations seem to be consistent with the current efforts of the Philippine Government not to immediately overhaul the 1987 Constitution but to introduce some amendments to it. On the agency side, institutions and agencies must be strengthened in terms of performing their mandates whereas citizens and different groups must be informed not only of their rights and responsibilities but also of government responsibilities and procedures, as well as major laws affecting them.

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As stated in the Executive Order 9 issued on 24 September 1985 by former UP President Angara, the objectives and functions of the Center are as follows:

- Develop, organize, and manage research issues of national significance. Such issues, because of their importance and inherent complexity, require an integrative and collaborative approach and also more sophisticated research methodologies and skills;
- Encourage and support research and study on these issues by various units of the University and individual scholars;
- Secure funding from public and private persons and agencies; and
- Ensure that the research outputs and recommendations of the Center are published and openly disseminated.

Since President Duterte was elected in 2016 on a promise of constitutional change for the Philippines, debates among politicians and citizens have centred on the question of whether the 1987 Constitution addressed the aspirations of the Philippine people and nation. Despite the Constitution's clear intent to institutionalize democracy, equality and grounds for decentralization and economic growth, the Philippines continues to suffer from unequal development, with most economic and political activity focused in Metro Manila. Service delivery is viewed as unresponsive and conflict, especially in Mindanao, has continued to present challenges for peace and prosperity. Does the persistence of these challenges suggest that the 1987 Constitution has failed to achieve its goals? If so, does that failure lie in the design of the Constitution and the institutions it establishes or in its implementation?

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