

## On municipal autonomy IV

By : RAFAEL HERNANDEZ COLON

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This is my last column on a constitutional amendment to provide for municipal autonomy. The purpose of such an amendment is to deepen our democracy by empowering the people at the local level to provide for more efficient government for Puerto Rico. Once municipal autonomy is defined, made operative and protected in our Constitution, responsibilities will shift from central government to the local level and with it the resources with which to attend to these responsibilities. As a general rule, municipalities provide services and public works more efficiently, faster and at a lower cost than the central government. It takes a very poor mayor to make the exception.

The uptake by the municipalities of central government's responsibilities should go hand in hand with a reduction of personnel in the central government by attrition or by transfer to the municipalities. This, of course, is not the only remedy to our bloated, inefficient and politicized central government. Deregulation, elimination of obsolete agencies, outsourcing and privatization done well, as with the Teodoro Moscoso Bridge, are also in order.

Some will ask: why is a constitutional amendment necessary to provide for municipal autonomy? Well, the Municipal Autonomy Law passed during my administration does provide all the legal procedures necessary to bring about the transfer of powers or competencies from the central government to the municipalities. But this law has been in effect for 15 years and the transfer that has occurred does not rise to a meaningful level when we examine it from the point of view of the importance of the responsibilities transferred and the streamlining of central government.

Those municipalities that have undertaken land use and planning and other competencies have done very well at the local level. The examples are there: Bayamón, Carolina, Guaynabo, Caguas, Ponce. But most municipalities have not done so and central government is just as bloated, just as inefficient. Worse than that, since the Law for Municipal Autonomy was passed, the executive departments and agencies and the Legislature have engaged in a daily battle to make the municipalities subservient to them, constantly thwarting municipal initiatives that make a lot of sense.

A recent example is the law the Planning Board is trying to get through the Legislature, which would superimpose the islandwide *Plan de Usos de Terreno* over the land use plans adopted by the municipalities. When will we ever learn that land use planning is essentially a municipal function? A mature democracy always works this at the local level. For 60 years the Planning Board was incapable of coming up with land use plans for the whole territory of the municipalities of Puerto Rico. Now that our municipalities are doing this, the Planning Board pretends to amend the law for the *Plan de Usos de Terreno* in order to subject land use planning to the central government again.

Under the Law for Municipal Autonomy, land use and planning and building permits are competencies belonging to the municipalities. Other powers may be transferred by compact between central government agencies and the municipalities. Prisoners of a paternalistic mentality, which spells out government must come from the center no matter how indifferent, slow or gridlocked that center may be, the executive departments and agencies have been unwilling or at best reluctant to transfer these powers.

Fifteen years of experience with the Law for Municipal Autonomy teaches us there must be a constitutional restructuring of our system of government to overcome the centralist mentality so the municipalities cease to be the infant creatures of the state that they are now and properly assume the responsibilities corresponding to them in a mature democracy.

No state of the union, and no country in the European Union, has a central government with agencies providing for local public works (*Departamento de Obras Públicas*), local recreational infrastructure (*Departamento de Recreación y Deportes*), public schools (*Departamento de Educación*), local police patrol protection (*Policía de Puerto Rico*), firefighters (*Bomberos*), local transport licensing (*Comisión de Servicio Público*), Planning and Zoning (*Junta de Planificación*), Permits (ARPE) to name a few of our central agencies providing local services. This is so because in mature democracies these services are provided at the local level. Of course, there is central government responsibility over normative—i.e. policy—matters regarding some of these services, such as education. But the laws are implemented by the municipalities, or in some cases they share those responsibilities with central government agencies.

In my past columns, I proposed the constitutional amendment should incorporate the principle of subsidiarity to define the scope of municipal powers. This means the municipalities should have the power to attend to all matters that they have the administrative and fiscal capacity to attend to. Besides this general principle, the amendment should also identify certain powers necessary for local government. One is the power of eminent domain mentioned in a previous column; another, the power over land use and planning.

The constitutional amendment must establish the basic norms under which land use and planning will take place in Puerto Rico. It should require, through community board participation, that municipal plans classify municipal territory as urban, rural or capable of becoming urban. The plans promote the revitalization of our urban centers, the development of the necessary infrastructure for urban expansion and protect the urban and rural environment, the landscape and the natural resources within the territory.

Municipal land use plans should be dynamic. They should be directed to meet certain developmental and conservational objectives within a specific time frame, four to eight years at the most. Central government agencies must participate in the planning process and once they commit to provide certain infrastructure or resources to implement the plan, they must be legally bound to do so. By classifying the territory as urban, rural or capable of becoming urban, and by providing for public infrastructure, the plans would stem urban sprawl.

Constitutional municipal autonomy will usher in a new age of government in Puerto Rico. It is high time for serious debate and decision making on this matter so we may emerge from the governmental morass in which we find ourselves.

