

On municipal autonomy

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Law 81 of Aug. 30, 1991 entailed a significant turnaround in the centralist policies within the government of Puerto Rico. The principle that government is better when it is closer to the governed inspired the approval of this law. At the same time, the law was intended to deepen our democracy by providing at the local level mechanisms for participation in fundamental governmental decisions such as land use, zoning and construction.

Deepening our democracy means tapping into our human resources, providing local talent with the opportunity to contribute in a meaningful way to the governance of Puerto Rico. Centralization negates that opportunity. Power is distant. The channels of communication are difficult, if not impossible. Decision-making is far away from the people and their problems.

We have long suffered the evils of centralization. While our population was smaller and the challenges of government less complex, centralization served us well. Its benefits outweighed its drawbacks. But this has changed in the complex, problem-ridden, overpopulated society we have today. Central government no longer works efficiently. If guided by the principle of centralization, no reorganization of our government will restore effective government.

Reorganization of our government today must be undertaken through the principle of subsidiarity. This is the guiding principle in the allocation of powers to the different levels of government, both public and corporate, prevailing in contemporary thinking. The principle of subsidiarity may be described as one that allocates power to that level of government closer to the governed if this level has, or can be provided with, the wherewithal to solve the problem.

Another way of putting it would be the larger governmental or corporate unit should not absorb the smaller unit in what the smaller unit can undertake for itself or that authority should be exercised by that government level that is closer to the citizen.

The principle of subsidiarity should guide government reorganization both as to the power to be allocated to the municipal governments and as to the power to be allocated to the regional offices of central government. In both cases, it provides for more efficient government. Allocating power to municipal governments, however, has an effect on the workings of our democracy; regionalization does not.

Mayors and municipal legislators are elected by the people of a municipality, regional bureaucrats are not. This not only makes a difference as to their accountability, it makes a difference as to the empowerment of the people of the municipality. Empowerment breeds participation, a sense of responsibility as to the

governance of a community. Empowerment fosters democratic maturation. The proper workings of a democracy require more participation than merely casting a vote every four years. They require an ongoing involvement of the citizenry with community affairs. This type of participation is not possible on a meaningful scale through centralized government. It is only possible for a large number of our citizens at the local level.

Since we approved the Law for Autonomous Municipalities, participation of our citizenry has increased at the local level. Mayors such as José Aponte of Carolina, Willie Miranda Marín of Caguas and Héctor O’Neill of Guaynabo have turned their municipal governments into beehives of democracy. Other municipalities are moving in different degrees in the same direction.

Yet, the implications for good governance of the movement for municipal autonomy are not widely recognized nor accepted. Centuries of centralism have imbedded the centralist culture in our governmental structures including our judiciary. This centralist culture prevails over the Legislature and even some mayors are victims of this type of thinking. Due to this, the Legislature has approved law after law chipping away at the autonomy granted by Law 81 to our municipalities. This regressive legislation is permitted by the Commonwealth Constitution because it subscribes to an archaic doctrine that municipalities are creatures of the Commonwealth, which means they exercise power at the pleasure of the Legislature.

This is a serious constitutional deficiency that, sooner rather than later, should be redressed. Not that our Constitutional Convention was unaware the document was flawed with regards to its provisions on municipal government. They were well-advised by the foremost expert at the time, Dr. Carl J. Friedrich of Harvard University, who was an adviser to the Convention. We would do well to remember his indictment of this part of the Constitution:

“A basic question, most important to the constitutional task in Puerto Rico is: the problem of creating the necessary structures for the development of an effective local autonomy. Under the Organic Acts, this essential prerequisite of any genuine and effective democracy has remained neglected. There has existed a super concentration of power and authority at the center. Due to that, a sphere of genuine local autonomy as there exists in the states of the Union should have been constitutionally established...Many citizens learn to participate effectively in public affairs by commencing at the local level, and the cities, municipalities and countries with autonomous government have been rightly hailed in the United States as the ‘School of Democracy.’ This must be particularly true in a country with a high illiteracy rate. Unfortunately, the Constitutional Convention of Puerto Rico—Article VI, Section 1—has perpetuated the system of complete centralized control, instead of establishing a guarantee of autonomy for local government. This is the most serious flaw of the new Constitution.”

When Friedrich wrote these words—in 1952—Puerto Rico had the most effective central government in its history. The executive branch had been recently governed by a top-notch administrator, Rexford Tugwell, and Muñoz Marín had brought added efficiency through a reorganization designed by Jim Rowe, a

prominent New Dealer. Friedrich's advice was not heeded at the time with few negative effects. But as time went on and our problems grew more complex, our population grew and our cities sprawled all over the countryside and central government became bloated, we arrived at the end of the last century with a problem of governability. The lack of a school of democracy at the local level provided us with deficient leadership and inefficient government. The Harvard professor's words came back to haunt us.

It is high time we faced up to this deficiency in our constitution. Superficial reorganizations of government are not enough to address the problem, which is one of democratic governance. It requires tapping into our human resources by empowering our people. Higher levels of efficiency will be achieved by decentralizing our government and allocating power to the municipal level. In my next column, I will sketch out an amendment to Article VI, Section 1 of the Constitution to accomplish this.

