OFFICIAL STATEMENT OF THE PHILIPPINE ASSOCIATION OF FINTECH LAWYERS

In Response to Press Inquiry from Decrypt Media regarding Senate Bill 1330 and Blockchain Governance Initiatives

The Philippine Association of Fintech Lawyers, representing the collective expertise of legal practitioners specializing in financial technology and emerging digital governance frameworks, provides the following comprehensive legal analysis in response to your inquiry regarding Senate Bill No. 1330 and the forthcoming implementation of GoodGovChain in Baguio City.

I. BLOCKCHAIN TECHNOLOGY AS AN INSTRUMENT OF GOVERNMENTAL ACCOUNTABILITY

Regarding your first inquiry on whether blockchain genuinely improves accountability or merely conflates technical transparency with democratic oversight, we must examine this matter through established constitutional and administrative law principles.

Under Article II, Section 28 of the 1987 Philippine Constitution, the State adopts "full public disclosure of all its transactions involving public interest" as a fundamental policy. Senate Bill 1330's blockchain framework advances this constitutional mandate by creating immutable digital public assets (DPAs) that transform budgetary documents from mere administrative records into legally cognizable instruments with enhanced evidentiary weight.

The distinction between technical transparency and democratic oversight is jurisprudentially significant. Technical transparency, as manifested through blockchain's immutable ledger system, provides the infrastructural foundation upon which meaningful democratic oversight can be exercised. However, the mere existence of transparent records does not automatically constitute effective oversight. Democratic oversight requires active citizen engagement, institutional mechanisms for accountability, and legal remedies for malfeasance.

The blockchain framework under SB 1330 enhances accountability through three legal mechanisms: first, by creating tamper-evident records that satisfy the best evidence rule under the Rules of Evidence; second, by enabling real-time public access to budgetary information, thereby facilitating timely interventions; and third, by establishing digital audit trails that can serve as competent evidence in administrative and criminal proceedings.

Nonetheless, we caution that blockchain technology must be complemented by robust institutional safeguards. The immutability of blockchain records, while preventing ex post facto alterations, does not prevent the initial entry of inaccurate or incomplete data. Therefore, the legal framework must incorporate stringent data validation protocols and administrative oversight mechanisms.

II. REGULATORY SAFEGUARDS AGAINST PRIVATIZATION OF PUBLIC FINANCIAL DATA

Your second inquiry addresses the critical constitutional issue of preventing privatization or monopolization of access to public financial data when private entities maintain the blockchain infrastructure.

Under the Public Service Act and relevant jurisprudence, the involvement of private entities in essential government functions requires strict regulatory oversight to prevent the abdication of sovereign responsibilities. The proposed framework under SB 1330 establishes a tripartite governance structure involving the Department of Information and Communications Technology (DICT), the Department of Budget and Management (DBM), and the Commission on Audit (COA).

To prevent privatization risks, the legal framework must incorporate the following safeguards:

First, the government must retain ownership and control over all budgetary data, with private contractors serving merely as technical service providers rather than data custodians. This principle aligns with the constitutional requirement that public funds and their documentation remain within the public domain.

Second, open-source protocols should be mandated to prevent vendor lock-in and ensure interoperability. The blockchain infrastructure must utilize publicly auditable code to maintain transparency in the very systems designed to enhance governmental transparency.

Third, data portability requirements must be embedded in all contracts with private blockchain service providers, ensuring that the government can migrate its data to alternative platforms without technical or legal impediments.

Fourth, competitive bidding processes must be strictly observed for blockchain infrastructure contracts, with appropriate conflict-of-interest provisions to prevent the emergence of monopolistic arrangements.

The legal framework should also establish clear penalties for private entities that attempt to restrict public access to government data or engage in practices that could lead to de facto privatization of public information systems.

III. CONSTITUTIONAL IMPLICATIONS OF DIGITAL PUBLIC ASSETS AND PARTICIPATORY GOVERNANCE

Your final inquiry raises profound questions about the relationship between immutable digital records and democratic participation in governance.

The concept of Digital Public Assets, as defined in SB 1330, creates a new category of legal instruments that possess characteristics of both public documents under the Rules of Evidence and digital property under emerging cyber law jurisprudence. This hybrid nature presents both opportunities and challenges for participatory governance.

On the beneficial side, DPAs can strengthen participatory governance by providing citizens with unprecedented access to government information. The real-time availability of budgetary data through public portals enables informed citizen participation in democratic processes, consistent with the constitutional right to information and the State's duty to ensure "full public disclosure".

However, the immutable nature of blockchain records raises legitimate concerns about democratic flexibility. Traditional governance systems allow for the reinterpretation and contextual analysis of government data as circumstances evolve. Immutable records, while preventing tampering, may also crystallize government decisions in ways that could limit adaptive governance.

The legal framework must therefore distinguish between the immutability of transaction records and the interpretive flexibility necessary for democratic discourse. While the factual content of budgetary allocations and expenditures should remain immutable, the analytical frameworks, policy interpretations, and contextual understanding of these records must remain subject to democratic debate and reinterpretation.

To address these concerns, the implementing regulations should establish clear protocols for:

First, providing comprehensive metadata and contextual information alongside immutable transaction records to facilitate informed public analysis.

Second, creating formal mechanisms for public comment and interpretation of blockchain-recorded data, ensuring that immutability does not foreclose democratic participation in policy analysis.

Third, establishing legal procedures for addressing errors or disputes in blockchain records through appropriate judicial or administrative remedies, while maintaining the integrity of the immutable ledger system.

The existing Philippine Data Privacy Act needs to revisited, as much as possible it needs to contain some components that GDPR and US privacy laws have.

Conclusion

The blockchain governance initiative represented by Senate Bill 1330 and pilot programs such as GoodGovChain constitutes a significant advancement in Philippine public administration law. However, successful implementation requires careful attention to constitutional principles, administrative law requirements, and the preservation of democratic values within technological frameworks.

The legal profession must remain vigilant to ensure that blockchain technology serves as a tool for enhancing democratic governance rather than replacing it with mere technical processes. The immutability of blockchain records must be balanced with the flexibility required for effective democratic participation and adaptive governance.

As the legal community continues to analyze these developments, we emphasize that technology alone cannot solve governance challenges. Rather, blockchain must be implemented within a comprehensive legal framework that upholds constitutional principles, protects citizen rights, and maintains the essential characteristics of democratic accountability.

It should be noted that, the Constitution has expressly mandated technological advancement for national development and progress as provided in Art. XIV, Secs. 10-13. In relation to technology, blockchain is not a silver bullet but it will drastically change the landscape of the country's governance.

During mankind's existence during the Bronze Age and up to present, technology and law are two constructs that continuously try to outpace each other. It is said that technology defines whether or not one's civilization is glorious or tragic. In the current structure, blockchain being a technology that continuously evolves cannot be contained in an antiquated legal framework. As PAFLA always say "We cannot put a *Tesla* engine in a 1900 *Ford Model A* vehicle."

Respectfully submitted,

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