

Reaction to Dr. Michael Alba's Bases for Economic Regulation

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Mike Alba's paper is a conceptually rich and analytically elegant treatment of higher education reform as a "mode-of-provision design challenge." It presents a rigorous economic rationale for regulation, grounded in the nature of higher education as a club [*by economists' definition but a quasi-public?*] good beset by market failures—ranging from its club good characteristics to its information asymmetries and monopolistic cost structures. What makes the paper especially timely is its insistence that both free markets and direct government provision have inherent limits—and that in the Philippine context, these limits are not merely theoretical but painfully familiar.

Where the paper truly shines is in identifying the subtle but pervasive nature of government failure in Philippine higher education—characterized not just by inefficiency but by bureaucratic overload, the high cost of public funds, political interference, and policy volatility. I distinctly recall Mike rhetorically asking me during a Philippine Business for Education event—while I was seconded to CHED, pushing reforms with significant potential impact on higher education institutions—whether there could ever be any assurance of policy and institutional continuity, given our track record of reinventing the wheel with each change of political administration.

Mike's caution against naïve state intervention is important. Yet at the same time, it opens space for a complementary insight: that regulatory design must also confront institutional capacity constraints, not just at the system level, but within the regulatory body itself. This is where Nandy Aldaba et al.'s PIDS paper on CHED's dual developmental and regulatory functions makes a valuable contribution—by taking a close-up look at CHED's actual machinery, its overloaded mandates, and the organizational bottlenecks that hinder its dual role as both regulator and developer.

Mike rightly argues that higher education markets cannot be left to self-correct, given their structural failures. But the PIDS paper adds specificity to the types of institutional failures that need to be fixed before regulation itself becomes effective. For an agency like CHED, these include the lack of a fully professionalized and empowered workforce, the outdated or inconsistent performance of technical panels, and the absence of harmonized quality assurance systems. These are not abstractions. They are the everyday realities that determine whether even a well-designed regulatory agency—such as the one Mike proposes—can function as intended. Without stable funding, performance-based planning, and human resource upgrades, even an "independent" regulator may default to weak implementation.

This leads to what I see as Mike's most consequential proposal: the creation of a well-designed, quasi-independent regulatory agency, functionally detached from political cycles and line agency routines. The agency he imagines is structurally different from CHED. It would be mandated to align stakeholder incentives with national goals, bound by norms of transparency and fairness, and protected from capture, time-inconsistent policymaking, and the hold-up problem. Mike invites us to imagine a regulatory body that views regulation as an enabling architecture for aligning behavior and aspirations, rather than merely as control.

If we pursue Mike's track of establishing a quasi-independent regulatory body—like the Malaysian Qualifications Agency, the Hong Kong Council for Accreditation of Academic and

Vocational Qualifications, or Australia’s Tertiary Education Quality and Standards Agency—it would take over the following functions from CHED:

- Quality assurance functions, including approval of new programs and institutions
- Accreditation oversight and harmonization
- Monitoring of HEI performance
- Authorization and closure of underperforming programs
- Enforcement of PSGs (or equivalent standards)

CHED would retain the developmental functions—unless Mike is proposing an institutional redesign that includes a quasi-independent regulator without a developmental agenda. CHED would then be responsible for:

- Policy development and higher education planning
- Developmental functions (e.g., faculty development, research funding, internationalization, extension services)
- Administration of scholarships and UniFAST
- Support for innovation and institutional strengthening (e.g., HEDF programming)

In effect, CHED could evolve into a higher education development agency, or even an apex planning body, while the regulatory authority becomes the technical referee of system rules.

Like Mike, Nandy’s PIDS paper recognizes the shortcomings of direct government provision and CHED’s current model. It also highlights the importance of autonomy for high-performing HEIs, underpinned by quality assurance, and the need to align incentives with outcomes—whether through regulation, for Mike, or funding and performance mechanisms, for Nandy et al. The two papers converge most powerfully in their shared recognition that regulatory credibility depends on insulation from capture, technical expertise, and public trust. However, the PIDS paper stops short of proposing an independent regulatory body. It frames the challenge as one of organizational reform within CHED, calling for a hybrid regulatory-developmental approach, with the possibility of delegating developmental functions to a separate unit.

Frustrated with bureaucratic limitations, many discussions in the Standing Committees of EDCOM II have broached the idea of creating independent bodies staffed by technical experts who can design and enforce targeted interventions, insulated from political interventions—for example, an independent body to manage assessments at different levels, and another to oversee the Philippine Qualifications Framework and quality assurance. The discussions continue.

Establishing an independent regulatory body for higher education in the Philippines—modeled after international examples like TEQSA, HKCAAVQ, or MQA—promises technical rigor and arm’s-length oversight. However, the effectiveness and integrity of such a body would ultimately depend not only on design but on the institutional environment in which it is embedded. Given the country’s enduring problems with political interference, patronage, weak enforcement, and bureaucratic capture, several vulnerabilities must be anticipated and mitigated, including:

- Politicization of Appointments and Leadership. Even with statutory independence, appointments may be politically negotiated or used to reward allies.

- Regulatory Capture by Powerful HEIs or Interest Groups. Universities and education conglomerates may influence regulatory policy through informal channels.
- Weak Legal Enforceability and High Litigation Risk. Courts may issue TROs on technical sanctions, undermining regulatory authority.
- Vulnerability to Corruption in Accreditation and Permitting. Accreditation decisions may become avenues for bribery or favoritism.
- Limited Capacity to Attract and Retain Technical Experts. Independence is no guarantee of insulation from politicized environments or low professional morale.

While the pathologies of the Philippine political and bureaucratic system give us pause in implementing an independent regulatory body, we are also not exempt from vulnerabilities when pursuing developmental-regulatory reforms from within CHED itself. These include:

- Blurred Boundaries Between Regulation and Development. Developmental sympathies or institutional constraints may compromise regulatory decisions.
- Political Interference in Decision-Making.
- Bureaucratic Inertia and Capacity Limitations.
- Resistance to Accountability Mechanisms. Weak enforcement of sanctions may persist.
- Developmental Functions Remaining Underfunded or Politicized.
- Regional Disparities and Uneven Implementation.
- Limited Safeguards Against Capture of Technical Panels.
- Reform Fragmentation and Policy Volatility.

In sum, I deeply appreciate Mike’s bold reframing of the problem—pushing us to see regulation not just as compliance enforcement, but as the design of incentive structures toward national goals. But I also invite continued dialogue with those who study the infrastructures of reform: how policies travel through agencies, how mandates are carried out unevenly across regions, and how institutions adapt—or fail to adapt—under pressure. Reforming CHED’s regulatory framework will not emerge from theory or policy alone, but from their intersection, embedded in real institutional architectures.

Postscript

Allow me a quick postscript. Both Mike and Nandy converge on a critical insight: the Philippine higher education ecosystem is too diverse for a one-size-fits-all regulatory approach. Institutions vary not only in quality and capacity, but also in mission, size, and governance arrangements. More than half of HEIs in the country have fewer than 1,000 students; 43% enroll fewer than 500. At the same time, nearly half of total enrollment is concentrated in large institutions with over 10,000 students—some of which operate as part of expansive educational conglomerates. This diversity in scale and institutional identity poses clear challenges to a uniform system of regulation, whether it is administered by a quasi-independent regulatory body or by a reorganized and internally differentiated CHED.

At present, less than 1% of all higher education institutions enjoy autonomous or deregulated status, but these designations are still largely determined by standards modeled on research-intensive universities. The result is a misalignment between regulatory incentives and the actual missions of many institutions. EDCOM II’s initiative to revisit and refine the typology of HEIs—including exploring pathways for more institutions to achieve autonomy—is a promising step. Against this backdrop, the idea of **differentiated regulation** deserves serious operationalization. It would enable the regulatory system to apply more proportionate, context-

sensitive criteria based on institutional type, performance, and maturity—thus promoting quality without prescribing uniformity.