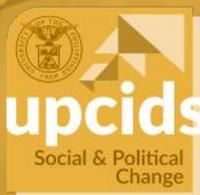




UNIVERSITY OF THE PHILIPPINES  
CENTER FOR INTEGRATIVE AND DEVELOPMENT STUDIES  
PUBLIC POLICY MONOGRAPHS

# Chronology of the 1987 Philippine Constitution

MARIA ELA L. ATIENZA  
Editor



FOUNDATION FOR  
INTEGRATIVE AND  
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# Introduction

The project *Constitutional Performance Assessment of the 1987 Constitution* is sponsored by the International Institute for Democracy and Electoral Assistance (International IDEA) together with the Center for Integrative and Development Studies (CIDS) of the University of the Philippines (UP) System, in particular, through its Program on Social and Political Change. The researchers are faculty members of the Department of Political Science, College of Social Sciences and Philosophy, UP Diliman. The project aims to support a more informed discussion and agenda surrounding the current proposed constitutional change process in the Philippines. The specific objectives include: (1) adapting and applying International IDEA's constitutional performance assessment tool in the case of the Philippines; (2) producing a shareable report of findings and conclusions of the assessment and disseminating to key actors involved in discussions on charter change to promote a more evidence-based process of constitutional assessment and possible change; (3) contributing to piloting and refining International IDEA's guiding methodology for assessing constitutional performance, including providing feedback and suggested modifications; and (4) creating a baseline understanding of the charter change initiatives.

This kind of research is important especially since more informed public discussions about the issue are needed and there has been no recent comprehensive review of the 1987 Constitution that has been disseminated to different audiences. Surveys have also shown that most Filipino citizens are not even aware of most of the contents of the 1987 Constitution, making them unable to participate more actively in many discussions about whether to revise or amend the Constitution.

This monograph on the chronology of the 1987 Philippine Constitution represents the preliminary drafts of the first part of the project. The chronology focuses on the background and processes of writing the 1987 Constitution of the Philippines, its contents, and a preliminary mapping or assessment of its application, covering the elections held under the Constitution, laws enacted by Congress as mandated by the Constitution and judicial decisions of the Supreme Court interpreting provisions of the Constitution, impeachment cases under the provisions of the Constitution, a timeline of the peace processes pursued from 1987 to the present, and a summary of the approval ratings and surveys of the officials and institutions created under the 1987 Constitution.

Succeeding research outputs and publications from the project will cover more detailed and systematic assessment of the 1987 Constitution using internal and external criteria. The external dimensions are the following: democratization; decentralization and autonomy; social justice, human rights, and gender equality; peace and conflict resolution; and economic development. The institutional arenas to be reviewed are: (1) electoral institutions; (2) legislative-executive relations; (3) the judiciary; (4) accountability institutions; (5) local governments; (6) rights; (7) security sector; (8) economy; and (9) citizenship/equality.

The authors of this monograph wish to thank the International IDEA, the UP CIDS, the Foundation for Integrative and Development Studies, the Department of Political Science of UP Diliman, and the members of the project's advisory group for the support. However, any errors or shortcomings are the authors' own. Comments and suggestions are welcome for the improvement of the final project report and for greater usability of the report by different stakeholders involved in discussions about the Constitution, political reforms, and charter change.

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# The 1986 Constitutional Commission and the 1987 Constitution: Background, Processes, and Outputs<sup>1</sup>

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Constitution-making is one example of a political process. In one sense, constitutional conventions are official public meetings, and part of what happens is both the formal debate and the final result. However, this perspective alone would give an incomplete account of the whole process. Conventions are not merely performances on the stages of public auditoriums. The outcomes of political conflicts, contrary to what they appear to be, do not result exclusively from rational public debate and the persuasiveness of the argument. As a former delegate of a constitutional convention observes:

Like a legislature, a constitutional convention is a swirl of personal rivalries and power plays, political battles and deals, alliances and treacheries, missed meals and missed families, raging emotions, strategic plotting, tense roll calls, procedural maneuvers, surprising reversals, and lucky or unlucky breaks (Schrag 1985, 5).

These are the less visible aspects of the process of constitution-making. In addition, the environment of the process or the circumstances are equally important. As Ginsburg and Huq (2016, 6) noted the following:

Constitutions are (usually) written texts ... that were adopted in quite varied social, political, and geopolitical circumstances. A polity can reach for the instrument of a written constitution, indeed, with a wide range of purposes in view: Constitutions can be transformative, preservative, or even revolutionary.

In this study of the constitution-drafting in the Philippines in 1986, the same political and personal factors were present, although their respective weights differ due to certain peculiarities and distinctions of Philippine society and politics. The succeeding pages show the social and political environment; composition; nature, processes and overall politics; prominent lobby groups; and the resulting product of the 1986 Constitutional Commission (ConCom), i.e. the 1987

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<sup>1</sup> Certain sections of this essay are revised versions of parts of the author's MA thesis in Political Science, *The National Language Policy in the 1987 Constitution: The Politics of Language in Constitution-Drafting*, University of the Philippines Diliman, October 1993, pp. 58–72.

Constitution. It is the goal of this section not only to document the context, actors, processes, issues, and dynamics that led to framing and approval of the 1987 Constitution and in the process, make people appreciate and understand better the current Constitution, but also to make readers understand that constitution-making usually is a response to pressing social concerns and historical periods. The resulting document, though imperfect, also contains the values and goals for the country that it hopes the Filipino people to achieve.

### The Social and Political Environment

The 1986 ConCom was convened three months after the EDSA People Power. Wilfrido V. Villacorta, ConCom member who also headed the Committee on Human Resources, explained that since this peaceful upheaval was mainly an “anti-dictatorship revolution” whose main objective was the overthrow of the martial law regime, its “ideology was not basically against foreign domination nor did it champion the liberation of the lower classes, having been led by the moderate middle forces” (Villacorta 1988, 301). Of course, the 1986 upheaval was merely a crescendo of sustained protests against the dictatorship since the declaration of martial law in 1972, as ConCom members Ponciano L. Bennagen, Edmundo Garcia, and Villacorta himself highlighted (Bennagen 2018; Garcia 2018; Villacorta 1988, 301). An assessment of the 1986 People Power, even if there is debate about whether to call it a “revolution” or not, would be incomplete if only the middle forces would be given credit. At the forefront of this anti-authoritarian movement were the so-called Leftists, the Democratic Socialists, the Muslim Secessionists, and the fragmented political opposition. More mainstream groups joined this movement after the assassination of Senator Benigno Aquino in 1983. Bennagen (2018) added that the 1987 Constitution did not originate solely from EDSA but the struggles of people against Marcos which actually blurred the distinctions among Filipinos in terms of class, gender, etc.; those in the struggle, for Bennagen, were all Filipinos belonging to “one family.”

Nevertheless, at the helm of the urban middle-class movement at EDSA were the political leaders who consistently opposed the dictatorship. And according to Villacorta, the charisma of these luminaries sat well with “the patron-client proclivities of the traditional political culture.” At EDSA, “the celebration preceded the reason for it,” and this reflects “the native optimism of the Filipinos” (Villacorta 1988, 301).

When the members of the ConCom were appointed, the People Power euphoria remained (Bennagen 2018; Villacorta 1988, 302). This is the reason why people’s participation was consciously included all throughout the processes of the ConCom (Bennagen 2018; Braid 2018). There was general confidence that the deliberative body would bring about the necessary structural reforms in a much weakened Philippine society.

### Selection of ConCom Members and Membership Profile

In April 1986, President Corazon C. Aquino announced her administration’s plans to convene the ConCom and invited the public to submit nominations. The nominees endorsed by various political groups and sectors reached a large total, though written accounts vary from about 1,500 (Quijano 1986, 1) to 2,000 (Nolledo 1987, iii). Their names were published in the major newspapers along with the individuals and organizations which endorsed them. Feedback about the backgrounds of the nominees was submitted by the public and was fed into the computers of Malacañang. In contrast with previous constitutional conventions where the members were elected, this convention was appointed with emphasis placed on sectoral rather than regional representation (Aruego 1949; Gonzales 1980, 45-46, 135; Quijano 1986; and interview with Villacorta by the author, 14 May 1993 [Atienza 1993, 62]). Some quarters have criticized the selection process of the members of the

Commission, but the justification given by the administration was that an election at such an early time would be very costly and would be disrupted by counter-revolutionary elements. Administration supporters also claimed that constitution-making bodies can be appointed, like the Philadelphia Convention of 1787, the West German Constitutional Commission, and even the Philippines' Malolos Congress (Villacorta 1988, 302).

The first forty-four (44) appointees were announced on May 25, 1986 during the "Reunion of EDSA Heroes" held at Camp Aguinaldo. Five (5) seats were offered to the opposition party Kilusang Bagong Lipunan (KBL) founded by Ferdinand Marcos and the remaining slot was offered to the Iglesia ni Kristo (INK). Four (4) slots were eventually filled by KBL while the INK declined the lone seat offered to it.

As in other representative bodies of the country, the males were overrepresented. Of the forty-eight (48) appointees, only six (6) were women, representing 12.5% out of 48 members. In contrast, there were about twelve (12) elected women delegates in the 1971 Constitutional Convention (ConCon) where all members were elected by geographic districts. It was in 1971 that women first became part of a Philippine constitutional convention. However, there were a total of 320 ConCon delegates in 1971 as opposed to the 48 in 1986, making women less than 4% of the 1971 ConCon.

In terms of educational background, lawyers dominated the ConCom. Thirty-three (66.75%) were university graduates of law. Fourteen (14) of these law graduates undertook master's, doctor's, and post-graduate degrees or studies. One also had a theology degree and another, military training. The educational background of the non-law graduates were as follows: three (3) had bachelor's degrees; three (3) had theology degrees; three (3) had master's degrees (anthropology, public health and teaching, and Latin American studies); three (3) had doctor's degrees (economics, mass communication, and political science); one (1) was still a BA Philosophy student; and two (2) had no formal degrees.

In terms of occupational background, thirty-two (32) were lawyers, three (3) of them retired justices (two in the Supreme Court and one in the lower court) and one (1) retired military officer; five (5) were from the religious sector, i.e. a nun, a priest, a bishop, and two pastors; six (6) were college or university professors (of anthropology, political science, public health/nursing, mass communication, and economics); one (1) was an activist movie director; one (1) was a university student leader; one (1) was a civic leader; one (1) was a journalist; and one (1) was a peasant leader.

Of the forty-eight (48), thirty (62.5%) were sectoral representatives. They represent the following sectors: the religious; the professionals; the Muslims; education; communication and media; the youth; peasants; women in the judiciary; the Zamboanga Peninsula; cultural minorities; the military; the media; the academe; labor; farmers; national business; and health workers.

The average age was fifty-four (54) according to Villacorta (1988, 302). Sixteen of the Commissioners were seventy (70) years old and above, seven (7) were in their sixties (60s), twelve (12) were in their fifties (50s), ten (10) were in their forties (40s), two (2) were in their thirties (30s), and one (1) was in his twenties (20s).

Twenty (41.67%) of the Commissioners held elective offices prior to their appointments to the ConCom. Nine (9) were delegates to the 1971 ConCon; nine (9) were members of the Batasang Pambansa (the Marcos era parliament); and two (2) were former senators. Prior to their last elective positions, three (3) served in both the Senate and the House of Representatives; two (2) served in the Senate; two (2) served in the House; and two (2) served in the 1971 ConCon.

In terms of geographic representation, the Tagalog areas and Luzon in general were overly represented. Twenty-seven (27 or equivalent to 56.25%) were born in Tagalog areas (Bulacan, Quezon, Rizal, Cavite, Laguna, Batangas, Palawan, and the National Capital Region). Thirty-five (35 or 72.91%) of the delegates were from Luzon, nine (9 or 18.75%) were from the Visayas, and four (4 or 8.33%) were from Mindanao. (Malaya 1986; Constitutional Commission 1986; and interviews by the author with ConCom members Ambrosio B. Padilla, 21 July 1993, and Francisco A. Rodrigo, 1 September 1993 [Atienza 1993, 65–66])

Thus, in terms of education, profession, gender, age and geographic background, the composition of the ConCom was clearly elitist. As explained by Villacorta, “(e)ven if members were elected, it could not probably have been more broadly based, given the nature of our electoral system.” (Villacorta 1988, 302–303).

However, a caveat must be added. Had popular elections to select the members of the ConCom been held in 1986, just like how the delegates in the 1934 and 1971 ConCon were selected by geographic region, most of the ConCom members would not have been selected. Many of them, though considered “elite” in terms of professions and education, can be considered non-traditional personalities who would not have the machinery to run campaigns and were not household names. What they represented were sectors that were normally not represented in elective decision-making bodies. Aside from lawyers, businessmen, politicians and landlords, the 1986 ConCom was comprised of health professionals, religious leaders, labor and peasant leaders, journalists, and university professors. This is the added dimension of the ConCom compared with previous constitution-making bodies.

### Overall Nature, Processes, and Major Issues

The ConCom formally convened on June 2, 1986. Elected officers of the ConCom were former Supreme Court Justice Cecilia Muñoz Palma (the first woman appointed to the Supreme Court of the Philippines) as President, former Senator Ambrosio Padilla as Vice President, and 1971 ConCon delegate Napoleon G. Rama as Floor Leader.

One of the major issues that preoccupied most Commissioners from the very beginning was the form of government. Most Commissioners were prejudiced against the parliamentary system because of its association with the Marcos regime. Villacorta said that he pointed out to his fellow Commissioners that “Marcos’ form of government was a corruption of the parliamentary system;” it was an authoritarian system with a rubberstamp legislature. However, he said that most Commissioners were set on the presidential system (Villacorta 1988, 303).

In the formation of the various committees, the leadership asked each of the Commissioners a list of their priority or preferred committees. Based on these lists, the leadership decided on the committee assignments, including the chairs and vice-chairs of each committee (Interview with ConCom member Jose Martin Luis C. Gascon by the author, 2 September 1993 [Atienza 1993, 66]). These committees then set out to conduct public hearings aimed at assisting them in formulating their respective proposed articles. With only forty-eight (48) members, every Commissioner was a member of 3 to 5 committees and oftentimes had to work until late at night. With a September 30 deadline and conscious of the high operational costs, the committees worked from early morning to late hours in the evening (Villacorta 1988, 304-305; Nolleto 1987, iv).

Aside from the committee assignments, the Commissioners had to submit several resolutions which contained their proposed provisions for the draft constitution, work that required careful research and preparation. Most of the younger and inexperienced Commissioners hired

“high-powered” researchers and legal consultants who were in touch with the grassroots because of their experience in the “parliament of the streets.” These assistants developed a pool of support personnel whose expertise was shared by a loose grouping of Commissioners that came to be known as the progressive or “nationalist bloc”. These assistants of the so-called progressive bloc were the most visible and active (Villacorta 1988, 305).

As pointed out earlier, the euphoria associated with People Power defined the highly consultative work of the ConCom (Bennagen 2018). Another ConCom member, Jose N. Nollado, authored the first resolution of the Commission calling for public consultations before the Constitution could be drafted (Nollado 1987, iii). In addition to the public hearings conducted by the committees, four (4) weekends were reserved for provincial hearings, with the “more physically fit...farmed out to the provinces in teams” (Villacorta 1988, 307). Various sectors attended the hearings, which were organized by civic organizations, the Bishops-Businessmen Conference, the National Movement for Free Elections (NAMFREL), and some cause-oriented groups in coordination with local officials. Provincial hearings throughout the country reached about ninety (90) (Villacorta 1988, 307).

Garcia, who chaired the Public Consultations Committee, said that they consciously went to different parts of the country and met with various sectors with conflicting interests to get the sentiments of the people. People wanted to be heard. However, Garcia also recalled that some sectors were difficult to deal with or had very strong sentiments regarding the process or on specific issues. For example, the military at that time did not like too much emphasis on human rights while Commissioners were booed by Ilocanos who were still loyal to Marcos when they came for the consultations (Garcia 2018).

The call for a very strong nationalistic policy was equally strong in all these hearings. In these hearings, there was preference for a unicameral legislature. There were also evident calls for more controls in foreign investment, industrialization, genuine land reform, free high school education, curbs to military abuses, and a broader-based national language. People were divided on the United States (US) bases, though the consensus was there should be less dependence on these foreign bases and on foreign aid and loans (Villacorta 1988, 307).

Constitutional conventions are significant events in the life of a polity. Such conventions are “occasions for expressing ultimate public aims and concepts of democratic government.” In theory, they reflect the aspirations of the people and their views on the use of public power to achieve their goals. Because any subject that can be addressed in legislation can be treated in a constitution, conventions also tend to be “cauldrons into which social issues of significant controversy are thrust” (Schrag 1985, 4). We can see in the Philippine case that in 1986, there were a number of very prominent concerns that united and divided the people.

Ideally, the constitution must be a reflection of “the interests, needs and aspirations of the people.” But as Villacorta notes, it has been discovered in the early stages that “varying interests represented by the drafters themselves colored their perceptions of what was the common good.” As the process of deliberations progressed, it became clearer that what was to be the new Constitution of the Philippines—as in all political processes—was to be a product of compromises where there was an accommodation of the interests articulated by the framers whose worldviews or perspectives were shaped by their social backgrounds and their self-interests. The ConCom member added that as in most cases where majority of the framers “came from the establishment, the guardians of the status quo conspired to maintaining the existing arrangement of forces and resources in society” (Villacorta 1988, 299). This was despite the fact that every Commissioner was also conscious of his or her historic role in the Commission and of the public’s scrutiny (*ibid.*).

But in contrast with the previous constitutional conventions of the country which were mainly concerned with political issues, the 1986 ConCom occupies a prominent place in the history of Philippine constitution-making as the only period where the dynamics had been so ideologically oriented, even if most of the Commissioners themselves may be unaware of this. The “heightened consciousness of the eighties was reflected in the fiercest debates” that occurred in the session halls of the former *Batasang Pambansa* (now the seat of the House of Representatives) from June to October 1986 (Villacorta 1988, 300). The ideological debate was particularly evident in the heated discussions about the role of foreign investments, the future of American bases, the ban against nuclear weapons, the land reform issue, and the rights of labor. The issue was not only property rights but also the sovereignty of the Philippines as a nation (*ibid.*).

Political science professors and ConCom members Garcia and Villacorta identified the two major groups within the Commission (Atienza 1993, 69;<sup>2</sup> and Villacorta 1988, 307). These were: (1) the mainstream or conservative bloc, which was composed of liberals and conservatives, and (2) the smaller nationalist or progressive bloc whose number fluctuated depending on the issue.

The issue of Filipinization of industries clearly polarized the body into the conservative and nationalist blocs. The major point of contention during the discussions on the national economic provisions was the extent of Filipino participation in public utilities. Because of the close relationship of public utilities to national security, the nationalist bloc proposed that there be a 100% Filipino equity in the sector. Later, the bloc was willing to compromise and concede to the 75% equity. However, “the biggest shock” came when no less than Commissioner Bernardo Villegas, Chair of the National Economy and Patrimony Committee, went against the proposal of his Committee and voted along with the conservative majority who wanted only 60% equity for Filipinos. This resulted in the walk-out of five (5) commissioners, namely Bennagen, Minda Luz Quesada, Jose E. Suarez, Jaime S.L. Tadeo, and Villacorta. However, due to the pressure of different sectors of the public, they returned after a week accompanied by former Senator Lorenzo Tañada. They decided to come back after they received appeals from the public to return because according to some concerned citizens, they had already made their point and there were many other causes which they should champion inside the Commission (Villacorta 1988, 307–308).

Villacorta recounts that they were also persuaded by the more senior Tañada to return because the Commission was going to collapse, given that its credibility had been shattered by the walk-out of five of its leading members (Interview with Villacorta 1993 [Atienza 1993, 70]). Even if the rest of the Commissioners were able to come up with an extensive draft constitution, it would be defeated in the plebiscite. In turn, the revolutionary government of President Aquino would be destroyed. So, for the sake of the country, the five came back, but on one condition: “that the nationalist bloc will not be pushed around, and that the majority will not be tyrannical but would listen to our recommendations” (Interview with Villacorta 1993 [Atienza 1993, 71]).

Indeed, this mood of reconciliation after the walk-out facilitated the passage of certain progressive provisions on education and social justice, such as nationalism and patriotism in education; a stronger bill of rights; free high school education; right of labor to organize; extensive coverage of land reform; adoption of Filipino as the national language; etc. However, the conservatives remained steadfast as far as what they considered to be the non-negotiables were concerned: 40% equity for investors, congressional prerogative in determining retention limits and compensatory schemes for land reform, the maintenance of English as a medium of instruction, and the retention of the

<sup>2</sup> Garcia made this comment during the author’s master’s thesis proposal defense on 16 March 1993, at the Department of Political Science, University of the Philippines, Diliman, Quezon City, where the former served as panel member.

US bases until 1991 (Villacorta 1988, 308). Clearly, the interests of multinationals, the US bases and landlords were protected.

There were initial agreements that were also changed during the plenary and adjustments in related sections were not made, perhaps due to the limited time available. These may have long-lasting impacts. For instance, the ConCom originally wrote the draft charter with a unicameral legislature in mind. The committee in charge of the article on the legislature approved a unicameral assembly; however, the plenary at the ConCom voted in favor of a bicameral Congress with just a one-vote difference. This change was not reflected in some parts of the final draft of the Constitution. Retired Justice Adolfo Azcuna, who was a ConCom member, explained that they had to rewrite parts of the draft to reflect the change to a bicameral legislative body; however, the committee in charge of Article XVII (revision and amendments) “failed” to adjust their provisions to suit the bicameral nature of Congress (Gavilan 2018). Azcuna added that even with an overall review of the draft, there was really an “oversight” and the problem went unnoticed (Gavilan 2018). Thus, to this day, the 1987 Constitution is unclear on whether or not the two chambers of Congress should vote jointly or separately in introducing changes to the Constitution.

### Lobby Groups, Position Papers, and Letters

People’s organizations, delegations of indigenous peoples, and labor and farmers’ groups “lent life and color to the otherwise somber portals of the plenary session halls” (Villacorta 1988, 305). Villacorta enumerated some of the most prominent and memorable lobby groups. First, the “right to life” lobby headed by the Opus Dei led a sustained and “aggressive” “well-oiled” machine that overshadowed the lobbying efforts of feminist organizations like Gabriela with their fiery speeches at rallies outside Batasan (Villacorta 1988, 305–306).

Second, business organizations like the National Economic Protectionism Association and the Philippine Chamber of Commerce and Industry were strongly lobbying for economic nationalism during the discussions on the national economy. They were countered initially in a subtle manner by multinational corporations “which expectedly had friends in the Commission”. The multinational lobby group only came out in the open “approaching their allies in the Commission” when the provision requiring 70% Filipino equity in all advertising firms was passed. They failed to have the voting reversed (Villacorta 1988, 305).

Third, another aggressive group was the Spanish lobby, a group of Spanish language teachers who constantly went to Commissioners’ offices and session halls to convince the ConCom to retain the compulsory teaching of Spanish. They even managed to get a letter of support from Cardinal Jaime Sin. They lobbied up to the end but the Committee on Human Resources was not convinced.

Fourth, the Catholic Educational Association of the Philippines (CEAP) was alarmed about the original proposal of the Committee on Human Resources to make Filipino the sole medium of instruction. Clerics came in numbers to plead with Commissioners to retain English as a medium of instruction. They succeeded, probably because of the strong Catholic profile of the ConCom.

Fifth, landlords were represented by “Commissioners with big landholdings.” However, there were a number of individuals, many of them old, that identified themselves as “small landlords” who lobbied for the protection of landowners’ rights. They held big rallies outside the Batasan (Villacorta 1988, 306).

Sixth, there were “waves of gradeschool children who lobbied for an anti-nuclear policy.” According to Villacorta, these children held “spine-chilling die-ins” that won over majority of Commissioners who voted for the nuclear free option (Villacorta 1988, 306).

Finally, both Villacorta and Commissioner Florangel Rosario Braid acknowledged the American presence during the whole process. Highly noticeable was the daily presence in the galleries of Mr. Richard Holmes, at that time the chief political officer of the US Embassy. There were unconfirmed reports by two Commissioners that Holmes approached them in the comfort room to request them to vote in favor of retaining the US bases. Both Braid and Villacorta, however, recall that to their knowledge, Holmes to his credit avoided giving media interviews and refused to join the Commissioners in the lounge even when he was invited by some (Villacorta 1988, 306 and Braid 2018).

Aside from these major lobby groups, ConCom members received “hundreds of letters every day,” with some of them coming from Filipinos abroad, mostly from Europe and the United States, as well as extensive research materials from their own staff, government offices, and civil organizations (Nolledo 1987, iv).

### Approval of the Draft Charter, Campaign, and Ratification through Plebiscite

One Commissioner, movie director and activist Lino Brocka, walked out and formally resigned before the completion of the draft charter. In the end, an overwhelming majority, 45 out of 47, voted in favor of the draft constitution. Former Senator Decoroso Rosales had to affix his thumbmark to the final document because he could no longer write; he passed away soon afterwards. Suarez and Tadeo, both prominent members of the nationalist/progressive bloc, were the ones who voted “no” to the draft document. The final draft was presented to President Aquino on October 15, 1986.

A period of nationwide campaign followed, with the Commissioners going around the country for educational campaigns, media appearances, convocations and fora, speaking engagements, etc. to convince people to vote for the draft charter (Nolledo 1987). During the campaign, the Commissioners made sure that the draft document was translated into different languages used in the country and popularized into comics as well (Braid 2018). Nolledo noted that the 1987 Constitution was “the most widely and exhaustively discussed document in our history”, with more than twenty million copies of the draft distributed in “all nooks and corners of the Republic of the Philippines” (Nolledo 1987, iii).

ConCom members, their staff and volunteers went to far-flung areas of the country; rode buses, jeepneys and tricycles; and ate with their bare hands with impoverished Filipinos. Some of them spent their own personal funds. Some Commissioners were booed by Marcos loyalists. The opposition, especially KBL, criticized the draft Constitution and campaigned against its ratification. Francisco Tatad tore to pieces a copy of the draft. Arturo Tolentino said that Commissioners should be charged with treason for allegedly giving foreigners more rights than Filipinos in the Constitution (Nolledo 1987, iv–v).

A plebiscite for the draft charter’s ratification was held on February 2, 1987. More than three-fourths of all votes cast (16,622,111 or 77.04% out of 21,785,216) were for ratification; thus, the 1987 Constitution took effect.

### Some Concluding Observations

To recap, in terms of social and political environment of the ConCom, it benefited from the wave of the EDSA spirit. The 1987 Constitution is definitely a reaction to the country’s martial law experience. As ConCom member Braid said, this reactionary nature may be criticized as a weakness but it is also its strength; it reflects people’s frustrations about the past as well as

aspirations for the future (Braid 2018). The themes of participatory democracy, social justice, and human rights permeate the whole document.

Despite the appointive nature of the members of the ConCom and the fact that members were elites and leaders in their own respective fields, members represented sectors that would not have been represented had the selection process been open to elections by geographic districts. Despite only four months of deliberations, the processes involved numerous provincial hearings and diverse groups representing various interests were allowed to express themselves.

Ideological positions divided members of the ConCom on major issues. The sovereignty of the nation became the topic of many fierce debates. The members were divided into the conservative bloc and the much smaller progressive bloc. Studying the dynamics and processes of constitution-making has exposed the role of class and vested interests as well as some elitist tendencies. Commissioners were also influenced by both visible and subtler lobby groups.

However, despite criticisms, it would be wrong to say that the 1987 Constitution had no positive features. The more sectoral bias of the members as well as the consciously embedded participatory process led to very important provisions. It actually contains some innovative features that can move the country forward “if genuinely implemented” and if the provisions are defended by the people who have the political will to do so (Villacorta 1988, 308–309). This includes political leaders, various agencies, and personnel of government, as well as citizens who are conscious of the principles and goals of the constitution as well as their own rights and interests.

This constitution enshrined the concepts of representative democracy and separation of powers by establishing a presidential system; established independent constitutional commissions; promotes local autonomy; and restored legislative and judicial powers vis-à-vis the presidency. It aspired 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. Furthermore, the 1987 Constitution has an expanded Bill of Rights, offering protection for human and civil rights as a result of the experiences under Marcos. It has also laid the foundation for a comprehensive program for social justice and educational development. The Philippine territory is required to be both ecologically safe and free from nuclear weapons. The charter also delineated the duties of the military vis-à-vis the supreme civilian authority. People’s participation is enshrined in both national (especially in the legislature) and local levels.

However, once a constitution is ratified, it is important to assess if the provisions have been implemented, put into specific laws and defended by various sectors, whether the Constitution has achieved its transformative goals, and if the provisions are still relevant to the values and culture of Filipinos as well as the changing times and challenges. The succeeding chapters represent a preliminary attempt to look at how and to what extent the 1987 Constitution has influenced some of the institutions, actors and processes of the country since its enactment. A more systematic internal and external review of the 1987 Constitution focusing on internal and external criteria, using several dimensions and a number of institutions and processes, will be covered by succeeding research and publications.

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# Elections under the 1987 Constitution

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A state can be considered democratic, in its minimalist sense, if it regularly holds elections that are presumed to be competitive and honest and where citizens can freely and openly elect its leaders. As the framework of government, the 1987 Constitution specifies the right of the people to choose their leaders or suffrage through elections and provided for means in identifying who are qualified to elect and be elected to office. This section briefly looks at the history of elections in the Philippines. As the Duterte Administration leads the campaign to change the charter, it is important to know the country's election experiences under the 1987 Constitution.

Since the ratification of the 1987 Constitution, twenty-one (21) elections for different levels of government have been conducted. This includes five (5) presidential and vice-presidential elections, ten (10) senatorial, congressional, and local elections, and ten (10) *barangay* and *Sangguniang Kabataan* (SK) elections. The first election under the 1987 Constitution was the legislative elections of May 1987. Under this election, new members of the reconvened Senate and House of Representatives were elected. In January 1988, the new set of city, municipal, and provincial officials were elected. In March 1989, *barangays* had their turn to elect their new councils.

## Presidential elections

On 11 May 1992, the first presidential and vice-presidential elections under the new constitution were held. Fidel Ramos and Joseph Estrada, who came from different political coalitions, were proclaimed winners of the presidential and vice-presidential races, respectively. The presidential race was marred by allegations of cheating from defeated candidate Miriam Defensor-Santiago (*see* Magno 1991). Defensor-Santiago was leading the survey polls, but ended up second in the race. Aside from the top executive positions, elections were also held for positions in the legislative branch and local governments. Later that year, the first *Sangguniang Kabataan* election was held.

Elections for legislative and local positions were regularly held every three years, and the presidential and vice-presidential elections every six years. In 1998, Joseph Estrada won the presidency, while Gloria Macapagal-Arroyo won the vice-presidency (Case 1999; *see also* Crisostomo 1999). Just like in 1992, Estrada and Macapagal-Arroyo belonged to different political coalitions. In 2001, Estrada was removed through a 'people power' movement, after a failed impeachment trial against him (*see* Coronel 2000). Arroyo then assumed the presidency. Despite her earlier promise of not running for a full term, Arroyo eventually ran and won in 2004 with Noli de Castro as her vice president. This time, both Arroyo and de Castro belonged to the same political coalition.

However, the 2004 presidential election was controversial (Verzola 2004; *see also* Hutchcroft 2008). Allegations of vote padding and shaving questioned the validity of the elections. Arroyo and de Castro both faced electoral protests in the Presidential Electoral Tribunal (PET) from defeated presidential candidate Fernando Poe, Jr. and vice-presidential candidate Loren Legarda. Poe died while the case is being heard. What complicated the case was the release of tapes of recorded conversations between Arroyo and then Commission on Elections commissioner Virgilio Garcillano. Named as the ‘Hello Garci’ scandal, it propelled several protests calling for Arroyo’s removal from office and filing of several impeachment complaints, but all to no avail.

The 2010 elections was the first ‘automated’ national election in the history of the Philippines (Eadie 2013). Manny Villar, former speaker and then Senate President, was already preparing for his 2010 presidential bid with the narrative of rags-to-riches. He was topping the pre-election surveys, with Liberal Party (LP)’s Mar Roxas in far second. However, months before the filing of candidacy for the 2010 elections, former president Corazon Aquino passed away. This created a movement among her supporters who called on Benigno Aquino III, her son, to run for presidency. Roxas gave way and ran for vice-presidency instead. Meanwhile, Villar was embattled with several issues, such as alleged impropriety in connection with his land development business and deposed former president Estrada, who received a pardon from Arroyo, also decided to run for president again. Aquino III won the presidency in this election while Jejomar Binay, Estrada’s running mate, won the vice-presidency. Defeated vice-presidential candidate Roxas filed a protest against Binay.

In 2016, Rodrigo Duterte emerged as the winner in a five-way presidential contest (CNN Philippines 2016). Being a mayor of Davao City, the candidacy of Duterte was not expected a year before the elections. The leading contenders were Vice President Binay, Senator Grace Poe, and Interior Secretary Mar Roxas. Prior to the filing of candidacy, Duterte always refused the idea of running for president. In the last minute, he was substituted as presidential candidate and eventually garnered a clear win with more than 16 million votes. This is not the case for Leni Robredo, who won the vice-presidency with a slim margin (*see* Cook 2018). This margin propelled defeated candidate Bongbong Marcos to file an electoral protest in the PET, which is still ongoing as of this writing.

### Recent cases in the senatorial race

The senatorial races are also not without controversy. One case is the electoral protest filed by Aquilino Pimentel III against Juan Miguel Zubiri for allegations of cheating during the 2007 Senatorial Elections. Zubiri was the 12th winning senator during the 2007 senatorial elections, while Pimentel placed 13th. The margin was a little over 21,000 votes. The ballots in question were those from the Autonomous Region for Muslim Mindanao (ARMM). Later, Zubiri would resign after revelations of cheating were made by election supervisor Lintang Bedol and ARMM governor Zaldy Ampatuan. The Senate Electoral Tribunal (SET) ruled in favor of Pimentel. He served the remainder of the unexpired term (*see* Calonzo 2011).

The 2016 elections had almost the same scenario. LP’s Leila De Lima got the 12th spot in the Senate race, while Francis Tolentino got the 13th. However, the margin between De Lima and Tolentino is more than one million votes. Tolentino alleged there was massive fraud, pre-shading of ballots, and some of his votes were not read by the machine (The Philippine Star 2017). The case, which has been pending in the SET, was suspended before Tolentino filed his certificate of candidacy for the 2018 senatorial elections.

## Local elections

The election for provincial, city, and municipal offices, including for members of the House of Representatives, are synchronized and held regularly. Controversies and protests are also present in these levels. In 2016, there were at least 42 electoral protests filed a month after the elections (Bueza 2016). Due the number of cases filed, however, many are not resolved. If ever they were resolved, it is usually months before the term ends or the term has actually ended. This renders the decisions as moot.

While national and local elections are held regularly, barangay and SK elections are not. They are always victims of postponements. The first postponement of barangay elections was in 2005. After the synchronization of barangay level elections in 2002, the elections for the next set of officers were scheduled three year later. However, Congress passed a law postponing the October 2005 elections to October 2007.

The next synchronized elections were held in 2010 and 2013. In 2013, pending proposals in Congress to overhaul the SK, the elections for it was postponed to a later year (Rappler.com 2013). However, the elections did not push through. The scheduled October 2016 synchronized barangay and SK elections were also postponed by Congress, initially to October 2017. With President Duterte's pronouncements about further postponement, the October 2017 was again postponed to May 2018 (Placido 2017). Weeks before the May 2018 elections, attempts to postpone for the third time were made in the House, but the Senate did not act on it. The May 2018 synchronized barangay and SK election pushed through (Rappler.com 2018). The SK officials elected during this election were now under the new SK law, which included more stringent requirements such as an anti-political dynasty provision and mandatory training for new officials.

The table below summarizes the elections from 1987 to 2018:

**Table 1.** Elections held since the ratification the 1987 Philippine Constitution

Year	Date	Elections	Offices	Notes
1987	May 11	Legislative	<ul style="list-style-type: none"> <li>Senate</li> <li>House of Representatives</li> </ul>	
1988	January 18	Local	<ul style="list-style-type: none"> <li>Governor, Vice Governor, Provincial Board</li> <li>Mayor, Vice Mayor, Councilors</li> </ul>	
1989	March 28	Barangay	Barangay ( <i>Sangguniang Barangay</i> )	
1992	May 11	General	<ul style="list-style-type: none"> <li>President, Vice President</li> <li>Senate, House of Representatives</li> <li>Governor, Vice Governor, Provincial Board</li> <li>Mayor, Vice Mayor, Councilors</li> </ul>	<ul style="list-style-type: none"> <li>Fidel Ramos, President</li> <li>Joseph Estrada, Vice President</li> </ul>
	December 2	SK	<i>Sangguniang Kabataan</i>	
1994	May 9	Barangay	Barangay ( <i>Sangguniang Barangay</i> )	
1995	May 8	General	<ul style="list-style-type: none"> <li>Senate, House of Representatives</li> <li>Governor, Vice Governor, Provincial Board</li> <li>Mayor, Vice Mayor, Councilors</li> </ul>	
1996	May 6	SK	<i>Sangguniang Kabataan</i>	
1997	May 12	Barangay	Barangay ( <i>Sangguniang Barangay</i> )	

Year	Date	Elections	Offices	Notes
1998	May 11	General	<ul style="list-style-type: none"> <li>• President, Vice President</li> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	<ul style="list-style-type: none"> <li>• Joseph Estrada, President</li> <li>• Gloria Macapagal-Arroyo, Vice President</li> </ul>
2001	May 14	General	<ul style="list-style-type: none"> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	
2002	July 15	Synchronized Barangay & SK	<ul style="list-style-type: none"> <li>• Barangay (<i>Sangguniang Barangay</i>)</li> <li>• <i>Sangguniang Kabataan</i></li> </ul>	
2004	May 10	General	<ul style="list-style-type: none"> <li>• President, Vice President</li> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	<ul style="list-style-type: none"> <li>• Gloria Macapagal-Arroyo, President</li> <li>• Noli De Castro, Vice President</li> </ul>
2007	May 14	General	<ul style="list-style-type: none"> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	
	October 29	Synchronized Barangay & SK	<ul style="list-style-type: none"> <li>• Barangay (<i>Sangguniang Barangay</i>)</li> </ul>	October 2005 Barangay & SK elections were reset to this date.
2010	May 10	General	<ul style="list-style-type: none"> <li>• President, Vice President</li> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	<ul style="list-style-type: none"> <li>• Benigno Aquino III, President</li> <li>• Jejomar Binay, Vice President</li> </ul>
	October 25	Synchronized Barangay & SK	<ul style="list-style-type: none"> <li>• Barangay (<i>Sangguniang Barangay</i>)</li> </ul>	
2013	May 13	General	<ul style="list-style-type: none"> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	
	October 28	Barangay	<ul style="list-style-type: none"> <li>• Barangay (<i>Sangguniang Barangay</i>)</li> </ul>	• SK elections were postponed.
2016	May 9	General	<ul style="list-style-type: none"> <li>• President, Vice President</li> <li>• Senate, House of Representatives</li> <li>• Governor, Vice Governor, Provincial Board</li> <li>• Mayor, Vice Mayor, Councilors</li> </ul>	<ul style="list-style-type: none"> <li>• Rodrigo Duterte, President</li> <li>• Leni Robredo, Vice President</li> </ul>
2018	May 14	Synchronized Barangay & SK	<ul style="list-style-type: none"> <li>• Barangay (<i>Sangguniang Barangay</i>)</li> <li>• <i>Sangguniang Kabataan</i></li> </ul>	October 2016 Barangay & SK elections were reset to October 2017 and was later reset to this date.

Elections in the Philippines have its fair share of drama, where it is usually said that there are only two sides post-elections: the winning side and the cheated side. This has become the prevailing narrative of 'losing' politicians. As one of the major political activities, sometimes held like a feast, elections are colorful and dynamic: colorful because politicians have used different colors to symbolize their campaigns; and dynamic because of political jingles and advertisements.

Especially now in the age of social media, politicians have ventured into varied ways of campaigning in order to get as many votes as possible. However, despite these openings and opportunities, for decades, the elections have been dominated by those who come from the popular, known, and well-off families. Elections under the 1987 Constitution, while regular, are not necessarily free, open, honest, and competitive.

From the time of President Fidel V. Ramos, there have been various attempts to amend and revise the 1987 Constitution. While most of the proposals center on government structure, distribution of power, and economic provisions, it is equally important to review the electoral system that is enveloped in these prioritized areas. The framers of the new constitution, whether they be the Congress as constituent assembly or a separately-formed constitutional convention, can learn from the experiences of the past elections since 1987, and use such inputs in creating a better, equal, and fair system of elections and reforming the party system for the Philippines.

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# Laws and jurisprudence as gauge of constitutional efficacy

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How far have state principles in the 1987 Constitution been given life as actual policies? How were these principles invoked or interpreted in justiciable controversies?

The constitution provides the cornerstone of a state's legal system. Its significance lies not only in defining the limits of the power exercised by organs of a state's political community, but by serving as an expression of the values and identity of the national community (Bulmer 2017). Constitutions are rarely perfect instruments and efforts to breathe life into their provisions require not only careful statecraft but immersion into an ever-evolving process of building social legitimacy. As Fallon (2005) observes, many countries have had written constitutions that purport to espouse high moral standards but were meaningless in practice or rendered inutile by judicial interpretation. As with any other constitution in other polities, the 1987 Constitution of the Philippines does not directly and concretely address the question of distributive justice such as providing adequate nutrition, clothing, or shelter to citizens. People may even be well within their rights to question the Constitution's moral legitimacy because the people as its purported sovereign could not have given their consent to an instrument that operates on vague commitments. Nevertheless, legislative output over the last three decades and the judicial challenges raised for or against some of them, give an idea of the extent by which constitutional ideals are embodied into policies.

This article surveys major legislation and court decisions that echo the basic state principles and policies found in Article II of the 1987 Constitution, as well as extant laws that reflect how Congress has responded to the organic law's policy mandates. Following Ginsburg and Huq (2016), the paper construes the enabling of public goods as among the easily discernible and comparable external evaluative criteria for measuring constitutional success. As statements summarizing the ideological tenets of the state, the declaration of principles and state policies do not only provide a framework for understanding other constitutional provisions, but also guide the instrumentalities of government in the observance and implementation of enacted policies. Although the 1987 Constitution has no explicit supremacy clause, it is well settled that laws or contracts which violate any norm of the Constitution are void, regardless whether they were promulgated by the legislative or by the executive branch, or entered into by private individuals for various reasons.

My premise is that legislative policies enacted to breathe life into these principles provide a concrete gauge of the effectiveness of the constitution as an organic law, and that court decisions echoing the principles serve as important assertions of constitutional supremacy. While

constitutions cannot be presumed to be complete nor perfect, policy outcomes that emanate from constitutional principles must be responsive at the very least in the pursuit of public goods—national security, public accountability, decent quality of life, wealth redistribution, and access to economic opportunities. After all, public goods as outcomes of the various legislative policies enacted since 1987 give tangible form to what Lutz (2006) refers to as the marriage of justice and power in constitutional design.

Policies are construed as attempts to realize what the Constitution envisions and concretize otherwise abstract rights and processes. Of course, the extent by which policies and their outcomes have approximated public goods envisaged in constitutional principles also depend on historical and political conditions, many of which are arguably beyond anyone's control. Be that as it may, policies and their outcomes indicate how much of good governance, social justice, and rule of law have been incorporated in the Philippine legal and social framework and made impact on the lives of Filipinos.

I begin with a short outline of the amendatory process provided in the 1987 Constitution and then proceed with a discussion of what state policies are and what they mean for a sovereign state and its inhabitants. I then expound on each of the state principles and policies, and list down the important related legislative enactments and jurisprudence. The paper adopts some of Cortez's (2001) typology but make no distinction as to which laws were passed as a matter of Congressional prerogative and which were enacted in response to a binding constitutional mandate.

### Amendments and revision (Article XVII)

The constitution's amendment process gives a glimpse of the fundamental mechanisms governing constitutional design and hints at the relative strength of popular control over government (Lutz 2006). The 1987 Constitution itself provides an amendatory process in two steps: (1) proposal and (2) ratification. If the process is via a proposal, the suggested changes in the constitution are adopted either through:

- (a) the Congress acting as a Constituent Assembly, by a vote of three-fourths ( $\frac{3}{4}$ ) of all its members (the law, however, is not clear whether the  $\frac{3}{4}$  threshold pertains to the two houses voting jointly or separately);
- (b) a Constitutional Convention called into existence by two-thirds ( $\frac{2}{3}$ ) of all members of Congress, or the electorate, in a referendum called for by a majority of all members of Congress; or
- (c) the people via a people's initiative, a petition of at least 12% of the total number of registered voters, wherein every legislative district must be represented by at least 3% of its registered voters.

Ratification of proposed amendments, on the other hand, shall be submitted to the people and shall be deemed ratified by the majority of the votes cast in a plebiscite, held not earlier than 60 days nor later than 90 days: (a) after the approval of the proposal by Congress or Constitutional Convention; and (b) after the certification by the COMELEC of the sufficiency of petition of the people.

The high court in *Gonzales v. COMELEC* (G.R. No. L-28196, November 9, 1967) has pronounced that the proposal of amendments is not a political but a justiciable question subject to judicial review. Congress may also propose amendments while calling for a Constituent Assembly at the same time (*Tolentino v. COMELEC*, G.R. No. L-34150, October 16, 1971). If the process is via a constitutional convention, all amendments proposed by the same convention shall be submitted to the people in a single election.

Like proposals for amendments, the question of whether a constitution was validly ratified is a justiciable question (*Javellana v. Executive Secretary*, G.R. No. L-36142, March 31, 1973). However, the question of whether a constitution has come into force and effect is a political question. Note also that the issue of plebiscite is not a political question and may be raised before the appropriate court (*Planas v. COMELEC*, G.R. No. L-35925, January 22, 1973). Interestingly, *Sanidad v. COMELEC* (G.R. No. L-44640, October 12, 1976) recognized the power of the president to assume the constituent power lodged in the legislative body to propose amendments. Nevertheless, even without valid ratification, a new constitution could come into force and effect by the acquiescence of the people. Popular acquiescence to a new constitution gives the document the force and effect of the fundamental law of the land, regardless of the method of ratification (*Mitra v. COMELEC*, G.R. No. L-56503, April 4, 1981).

Governments can sometimes operate even beyond the ambit of a standing constitution. Immediately after announcing that she was taking power, for example, Corazon Aquino issued Proclamation No. 3 on March 25, 1986, stating that her “new government was installed through a direct exercise of the power of the Filipino people assisted by units of the New Armed Forces of the Philippines.” The legitimacy of her government was questioned as it was not established according to the 1973 Constitution. However, according to the high court, the legitimacy of a government borne out of a successful revolution is a political question beyond the ambit of judicial review (*Lawyers’ League for a Better Philippines v. Aquino*, G.R. Nos. 73748, 73972, and 73990, May 22, 1986).<sup>1</sup>

Constitutional provisions on amendments via people’s initiative, however, are not self-executing and require enabling legislations. Unfortunately, *Defensor-Santiago v. COMELEC* (G.R. No. 127325, March 19, 1997) declared Republic Act (RA) No. 6735, the law providing for a system of people’s initiative, “inadequate to cover the system of initiative on amendments to the Constitution, and to have failed to provide sufficient standard for subordinate legislation.” As it stands, a law providing for a mechanism where people can directly propose amendments to the constitution has yet to be enacted. At this point, it is important to distinguish between amending a constitution and revising the same. Literature has conventionally distinguished between amendment and revision, although in practice, the line between them is thin and porous (Lutz 2006). An amendment generally refers to an alteration of one or few provisions, the purpose of which is to improve these provisions without affecting the other provisions of the constitution. A revision, however, connotes an examination of the entire constitution to determine how and to what extent it should be altered. Although proposals are not directed to the constitution as a whole, changes are considered revisionary if the implication is to introduce substantive changes that affect the constitution as a whole.

*Lambino v. COMELEC* (G.R. No. 174153, October 25, 2006) held that under the 1987 Constitution, revisions to the Constitution may only be made via a Constituent Assembly or a Constitutional Convention, but not via a people’s initiative, reiterating *Defensor-Santiago v. COMELEC* (1997). Moreover, no “piecemeal submission” (e.g. submission of age amendment ahead of other proposed amendments), can be made through a people’s initiative.

However, there is no need to resort to constitutional amendment or revision when simple legislative acts will do. Changing the design of the flag (Article XVI, Section 1), according to Bernas (2009), may be done only by constitutional amendment. However, the name of the country,

<sup>1</sup> Note, however, the distinction between EDSA I and EDSA II. *Estrada v. Desierto* (G.R. Nos. 146710–15, March 2, 2001), held that the government arising from EDSA I was extra-constitutional, while EDSA II was a constitutional exercise of the right to free speech, freedom of assembly, and to petition the government for redress.

national anthem, and national seal may be changed by a law passed by Congress that takes effect upon ratification by the people through a referendum.

### The national territory

The 1987 Constitution defines the national territory as comprised of: (1) the Philippine archipelago, including the islands and the internal waters, referring to waters around, between, and connecting the islands of the archipelago, irrespective of breadth and dimension; and (2) all other territories over which the Philippines has sovereignty or jurisdiction. This includes the territorial sea, seabed, subsoil, insular shelves and other submarine areas, as well as the country's terrestrial, fluvial, and aerial domains.

Territories by which the Philippines has sovereignty or jurisdiction include those recognized under international law. In Permanent Court of Arbitration (PCA) Case No. 2013-19 (*In the Matter of the South China Sea Arbitration between the Republic of the Philippines and the People's Republic of China*), decided on 12 July 2016, the arbitration court declared "as between the Philippines and China, China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the 'nine-dash line' are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the Convention; and further DECLARES that the Convention superseded any historic rights, or other sovereign rights or jurisdiction, in excess of the limits imposed therein" (emphasis in original).

In 2009, Republic Act No. 9522 amended certain provisions of RA 3046 as amended by RA 5446, defining the archipelagic baseline of the Philippines. The law was crafted primarily in compliance with the United Nations Convention on the Law of the Sea (UNCLOS) which the country ratified in February 1984. To date, this is the only legislation in recent years specifically pertaining to Philippine territory. In 2011, however, law professors, students, and several party-list representatives assailed the constitutionality of the law, fearing that it set aside the territorial demarcations set by the Constitution and ancillary treaties and practically abandoned the country's claim over territories such as Sabah. They also contended that by referring to Philippine waters as archipelagic, the law opened waters landward of the baselines to maritime passage and aircraft overflight, undermining Philippine sovereignty and national security (*Magallona, et al. v. Executive Secretary*, G.R. No. 187167, July 16, 2011). Upholding the validity of the archipelagic baselines law, the Supreme Court noted that neither the UNCLOS nor the law had anything to do with the acquisition, enlargement, or diminution of the Philippine territory. Baselines laws such as RA 9522 are not unconstitutional because they are merely statutory mechanisms for UNCLOS III states to delimit with precision the extent of their maritime zones and continental shelves. "In fact, the demarcation of the baselines enables the Philippines to delimit its exclusive economic zone, reserving solely to the Philippines the exploitation of all living and non-living resources within such zone," noted the High Court (*Magallona, et al. v. Executive Secretary*, 2011). The baselines law, according to the Supreme Court, is at its essence a notice to the international community of the scope of the country's maritime space and maritime areas within which it exercises treaty-based rights.

The issue of territorial integrity was again raised in *The Province of North Cotabato v. GRP Peace Panel* (G.R. No. 183591, October 14, 2008), following the crafting of the Memorandum of Agreement on Ancestral Domains (MOA-AD) which was then to be signed by the representatives of the Republic of the Philippines and the Moro Islamic Liberation Front. The MOA-AD was touted to be the culmination of a long process of negotiation between government and the rebel group who were engaged in a protracted war since 1984. The MOA-AD provided, among others,

the creation and recognition of a Bangsamoro Juridical Entity with an “associative” relationship with the national government. The concept of association, however, is nowhere recognized in the constitution. According to the High Court, the Bangsamoro juridical entity is a far more powerful entity than the autonomous region contemplated in the Constitution. It is not a mere expansion of the Autonomous Region of Muslim Mindanao but possesses all the criteria of a state. Moreover, even though the MOA-AD would not necessarily sever any portion of Philippine territory, its spirit, as implied by the concept of association, undermines the national sovereignty and territorial integrity of the Philippine state.

### State principles and policies

All provisions of the Constitution are self-executing unless otherwise intended. The exception to this rule are provisions which merely lay down a general principle, such as those laid down in the declaration of principles and state policies (*Espina v. Zamora*, G.R. No. 143855, September 21, 2010). Since they are not self-executing, they require implementing legislations. But there are state policies that are inherently self-executory, such as the following:

- (1) Right to a balanced and healthful ecology (*Oposa v. Factoran*, G.R. No. 101083, July 30, 1993)
- (2) Promotion and protection of health in Article II, Section 15 (*Imbong v. Executive Secretary*, G.R. No. 204819, April 8, 2014)
- (3) Right to information under Article III, Section 7 (*Legaspi v. CSC*, G.R. No. L-72119, May 29, 1987)
- (4) Filipino First Policy (*Manila Prince Hotel v. GSIS*, G.R. No. 122156, February 3, 1997)

Article II, Section 1 of the 1987 Constitution summarizes the democratic and republican framework of the Philippine state. Section 2, on the other hand, broadly lays down the guiding principles governing the country’s relationship with other states.

SEC. 1. The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them.

SEC. 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

### Civilian supremacy over the military

Article II, Section 3 is not a new provision although it is more elaborate than Section 8 of the 1973 Constitution.<sup>2</sup> Compulsory military service contemplated in Article II, Section 4 is also not new. Of interest, however, is how the present Constitution digresses from the 1973 Constitution in defining the prime duty of the government as one towards the service and protection of the people and not just the defense of the state.<sup>3</sup>

<sup>2</sup> Article II, Section 8 of the 1973 Constitution simply reads, “Civilian authority is at all times supreme over the military.”

<sup>3</sup> Article II, Section 2 reads, “The defense of the State is the prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service.”

SEC. 3. Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.

SEC. 4. The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal, military or civil service.

*People v. Lagman* (G.R. No. L-45893, July 13, 1938) is an old case whose case point has not been superseded. Here, it was clarified that the right of the government to require compulsory military services is a consequence of its duty to defend the state and is reciprocal with its duty to defend the life, liberty, and property of its citizens. Republic Act No. 9163 establishing a National Service Training Program amends RA 7077 and institutionalizes citizen training to encompass not just military preparedness but also literacy and civic welfare.

In light of the country's tumultuous past involving a highly politicized military, the number of laws specifically targeting uniformed personnel is interesting. The latest is Joint Resolution No. 1 signed on January 1, 2018, which effectively doubled the salary of police and military personnel, especially those at the lower ranks. Below are some important laws covering the military and uniformed personnel.

**Table 1.** Laws pertaining to the military and uniformed personnel

Republic Act (RA) No.	Title	Date Passed
6638	Department of National Defense (DND)-Armed Forces of the Philippines (AFP) Base Pay Law of 1987	November 26, 1987
6648	Integrated National Police (INP) Compensation Structure Act of 1987	February 6, 1988
6832	An Act Creating a Commission to Conduct a Thorough Fact-Finding Investigation of the Failed Coup d'état of December 1989, Recommend Measures to Prevent the Occurrence of Similar Attempts at a Violent Seizure of Power, and for Other Purposes	January 5, 1990
6948	An Act Standardizing and Upgrading the Benefits for Military Veterans and their Dependents	April 9, 1990
6963	An Act Granting Special Financial Assistance and Benefits to the Family or Beneficiary of Any Police or Military Personnel or Fireman Killed or Permanently Incapacitated while in the Performance of His Duty or by Reason of His Office or Position and for Other Purposes	September 4, 1990
6975	Department of the Interior and Local Government Act of 1990	December 13, 1990
7055	An Act Strengthening Civilian Supremacy over the Military by Returning to the Civil Courts the Jurisdiction over Certain Offenses involving Members of the Armed Forces of the Philippines, Other Persons Subject to Military Law, and the Members of the Philippine National Police	June 20, 1991
7077	Citizen Armed Forces of the Philippines Reservist Act	June 27, 1991
7439	An Act Authorizing a Partial Increase in the Quota Allocation for Promotion to the Grade of Major/Lieutenant Commander (PN) in the Armed Forces of the Philippines in Order to Avoid Unreasonable Delay in the Promotion of the Officers in the Grade of Captain/Lieutenant (PN)	April 27, 1992

Republic Act (RA) No.	Title	Date Passed
7696	An Act Amending Certain Sections of Republic Act No. 6948 Otherwise Known as "An Act Standardizing and Upgrading the Benefits for Military Veterans and their Dependents"	April 9, 1994
7898	Armed Forces of the Philippines (AFP) Modernization Act	February 23, 1995
8186	An Act Prescribing Officer Grade Distribution in the Active Force of the Armed Forces of the Philippines and Limiting the Tenure of Officers in the Grades of Colonel/Captain (PN) and General/Flag Officers in the AFP	June 11, 1996
8220	An Act Creating the Ranks of Chief Master Sergeant/Master Chief Petty Officer and Senior Master Sergeant/Senior Chief Petty Officer in the Enlisted Ranks of the Armed Forces of the Philippines, Appropriating Funds Therefor, and for Other Purposes	October 9, 1996
8551	Philippine National Police Reform and Reorganization Act of 1998	February 25, 1998
9040	The AFP Tax Exemption for Pay and Allowances Act of 2001	March 22, 2001
9163	National Service Training Program (NSTP) Act of 2001	January 23, 2002
9166	An Act Promoting the Welfare of the Armed Forces of the Philippines by Increasing the Rate of Base Pay and Other Benefits of its Officers and Enlisted Personnel and for Other Purposes	June 7, 2002
9365	An Act Creating the Rank of First Chief Master Sergeant/First Master Chief Petty Officer in the Enlisted Ranks of the Armed Forces of the Philippines (AFP)	December 21, 2006
9708	An Act Extending for Five (5) Years the Reglementary Period for Complying with the Minimum Education Qualification for Appointment to the Philippine National Police (PNP) and Adjusting the Promotion System Thereof	August 12, 2009
9828	An Act Creating the Military Service Board	December 3, 2009
10649	An Act Increasing the Burial Assistance for Veterans from Ten Thousand Pesos (P10,000.00) to Twenty Thousand Pesos (P20,000.00)	November 27, 2014
10664	An Act Declaring the Last Full Week of August as Armed Forces of the Filipino People Week	July 6, 2015
10882	AFP Derivative Retirement Pension for Children/Survivors Act of 2016	July 17, 2016
10973	An Act Granting the Chief of the Philippine National Police (PNP) and the Director and the Deputy Director for Administration of the Criminal Investigation and Detection Group (CIDG) the Authority to Administer Oath and to Issue <i>Subpoena</i> and <i>Subpoena Duces Tecum</i>	March 1, 2018
Joint Resolution No. 1	Joint Resolution Authorizing the Increase of Base Pay of Military and Uniformed Personnel in the Government, and for Other Purposes	January 1, 2018

**Table 2.** Related jurisprudence covering the military and uniformed personnel

Case	Important issue settled	Date of decision
<i>Aquino v. Esperon</i> , G.R. No. 174994	Article 70 of the Articles of War grants discretion to military authorities over the imposition of arrest or confinement of persons subject to military law charged with crime or with serious offense	August 31, 2007

Case	Important issue settled	Date of decision
<i>Kapunan v. Quisumbing</i> , G.R. Nos. 148213–17	A general grant of amnesty exonerates the accused (former military personnel) for their participation in the 1987 and 1989 coup attempts, but not for murder (in this case, the murder of Kilusang Mayo Uno leader Rolando Olalia and his driver Leonor Alay-ay)	March 13, 2009
<i>Trillanes v. Pimentel</i> , G.R. No. 179817	Former military officer charged with rebellion but later elected as senator, cannot invoke doctrine of condonation, as it pertains to administrative misconduct not criminal felony (rebellion is a capital offense under the Revised Penal code)	June 27, 2008
<i>Gudani and Balutan v. Senga</i> , G.R. No. 170165	The president can refuse to allow members of the AFP to appear before Congress, not on the basis of executive privilege, but as commander in chief of the armed forces (See also <i>Senate v. Ermita</i> , G.R. No. 169777)	August 15, 2006
<i>IBP v. Zamora</i> , G.R. No. 141284	Civilian authority (Section 3, Article II) is not defeated in a joint task force between the PNP and the Philippine Marines for the enforcement of law and order in Metro Manila as long as control is left to the PNP	August 15, 2000

### Separation of church and state

Article II, Section 6 of the 1987 Constitution guarantees the separation of church and state. The pertinent section reads:

SEC. 6. The separation of Church and State shall be inviolable.

No law has been passed governing or restricting religious belief and practice, precisely in keeping with this constitutional fiat. In a predominantly Christian country, however, religious beliefs and practices have become part of day-to-day existence. Government policy, it seems, has largely been to extend benevolent neutrality and accommodate religion under certain circumstances. For instance, the sale of bibles has been upheld to be tax exempt (*American Bible Society v. Manila*, G.R. No. L-9637, April 30, 1957). Moreover, not every governmental activity which involves the expenditure of public funds and which has some religious tint (e.g., a fiesta in honor of a saint in a barrio) is seen as violative of the constitutional provisions regarding separation of church and state, freedom of worship and banning the use of public money or property (*Garces v. Estenzo*, G.R. No. L-53487, May 25, 1981). The high court held that members of some religious sects (in this case, the Iglesia ni Cristo) may not be compelled to become union members in spite of closed shop union security agreements (*Victoriano v. Elizalde*, G.R. No. L-25246, September 12, 1974). A court interpreter was not removed from office for cohabiting with a man outside of marriage because such is allowed in her religion (*Estrada v. Escritor*, 492 SCRA 1, A.M. No. P-02-1651, August 4, 2003). The high court also upheld the right of Jehovah's witnesses to refuse to salute the Philippine flag on account of religious beliefs (*Ebralinag v. Division Superintendent*, G.R. No. 95770, March 1, 1993).

It was held that the separation of church and state is not violated when government uses as postage motif the commemoration of the 33rd International Eucharistic Congress as the Bureau of Posts officials merely took advantage of an event considered of international importance "to give publicity to the Philippines and its people" (*Aglipay v. Ruiz*, G.R. No. L-45459, March 13, 1937). Neither is there breach in the expropriation of Felix Manalo's birthplace as a historical landmark, not to commemorate his founding and leadership of the Iglesia ni Cristo, but in recognition of

his distinctive contribution to Filipino culture (*Manosca v. Court of Appeals*, G.R. No. 106440, January 29, 1996). Similarly, a government regulatory agency, such as the Movie and Television Review and Classification Board (MTRCB), is not intruding into the affairs of a religious denomination when it reviews the TV program of a religious organization (*Iglesia ni Cristo v. Court of Appeals*, G.R. No. 119673, July 26, 1996) as a form of mass media.

However, the court stated that there is breach when a reproductive health law mandates a hospital or a medical practitioner to immediately refer a person seeking health care and services under the law to another accessible healthcare provider despite their conscientious objections based on religious or ethical beliefs (*Imbong v. Ochoa*, G.R. No. 204819, April 8, 2014).

The Corporation Code requires organized religions to register with the Securities and Exchange Commission (SEC) and with the Bureau of Internal Revenue to establish tax-exempt status (*see* Sections 36, 91, and 109-116 of *Batas Pambansa Bilang 68*). However, there is no penalty for failing to register, and some groups do not. Registration with the SEC gives the church a legal personality, but a church can exist and function even without registration.

Religious artifacts (e.g., the tables of the Ten Commandments) are common in many government buildings and there is no law regulating religious symbols in public places.

Also, the Constitution gives political and cultural concessions to certain religious groups. For instance, under Article XX, Section 15, Congress is mandated to “enact an organic act for each autonomous region.... The organic act shall define the basic structure of government [and] shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.” As such, the Code of Muslim Personal Laws of the Philippines is recognized as binding to those who adhere to Islam. Islamic holidays, such as Eid al-Fitr and Eid al-Adha are also declared official holidays. On the other hand, Christian holidays such as Maundy Thursday, Good Friday, Easter, Christmas Day are regular holidays. Meanwhile, for those who adhere to the Catholic faith, All Saints’ Day, and the Feast Day of the Immaculate Conception (December 8) are special nonworking holidays.

Dynamic social order and social justice

Article II, Section 9 reads:

SEC. 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

The following are related laws giving life to this provision:

**Table 3.** Laws providing for a dynamic social order

Republic Act (RA) No.	Title	Date Passed
8150	Public Works and Highways Infrastructure Program Act of 1995	September 8, 1995
8425	Social Reform and Poverty Alleviation Act	December 11, 1997
9178	Barangay Micro Business Enterprises (BMBEs) Act of 2002	November 13, 2002
9287	An Act Increasing the Penalties for Illegal Numbers Games	April 2, 2004

Republic Act (RA) No.	Title	Date Passed
9994	Expanded Senior Citizen's Act of 2010	February 15, 2010
10644	Go Negosyo Act	July 15, 2014

Meanwhile, Section 10 explicitly articulates social justice as a state policy. It provides:

SEC. 10. The State shall promote social justice in all phases of national development.

Below are related laws approximating social justice in social policies.

**Table 4.** Related laws on social justice

Republic Act (RA) No.	Title	Date Passed
6657	Comprehensive Agrarian Reform Law of 1988	June 10, 1988
6939	Cooperative Development Authority Law	March 10, 1990
7432	An Act to Maximize the Contribution of Senior Citizens to Nation Building, Grant Benefits and Special Privileges and for Other Purposes	April 23, 1992
8282	Social Security Law	May 1, 1997
8371	The Indigenous Peoples Rights Act of 1997	October 29, 1997
9418	Volunteer Act of 2007	April 10, 2007

Human rights and human dignity

Article II, Section 11 reads:

SEC. 11. The State values the dignity of every human person and guarantees full respect for human rights.

A more exhaustive list of constitutionally guaranteed civil and political rights can be found in Article III (Bill of Rights). To ensure the promotion of human dignity and the protection of rights, the Constitution also created the Commission on Human Rights as a national independent human rights institution (Article XIII, Sections 17–18; *see also* Executive Order No. 163).

**Table 5.** Related laws on human rights

Republic Act (RA) No.	Title	Date Passed
9201	National Human Rights Consciousness Week Act of 2002	April 1, 2003
10368	Human Rights Victims Reparation and Recognition Act of 2013	February 25, 2013
10766	An Act Extending the Life of the Human Rights Victims Claims Board	April 19, 2016

There are also judicial remedies related to the pursuit and protection of human rights, made available by the high court as part of its rule-making power [Article VII, Section 5(5)]:

**Table 6.** Judicial remedies related to human rights

Judicial remedies	Description
Writ of <i>habeas corpus</i> (Rule 102, Revised Rules of Court)	The remedy extends to all cases of illegal confinement or detention by which a person is deprived of liberty, or if the rightful custody of a person is withheld. This remedy can also be used by a parent to gain access to a child in custody cases.
Writ of <i>amparo</i> (A.M. No. 07-9-12-SC)	The remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. By jurisprudence, however, it applies only to extralegal killings and enforced disappearances or threats. It cannot be invoked as a remedy in property or commercial concerns. In practice, the remedy has been invoked in cases of enforced disappearances, even those perpetrated by private entities as long as government involvement in the disappearance remains an indispensable element ( <i>Navia et al. v. Pardico</i> , G.R. No. 184467, June 19, 2012).
Writ of <i>habeas data</i> (A. M. No. 08-1-16-SC)	The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.

Laws that are related to specific rights protected under the Bill of Rights include:

**Table 7.** Related laws on specific rights protected under the Bill of Rights

Republic Act (RA) No.	Title	Date Passed
<b><i>III.12(4): On torture and similar practices</i></b>		
7309	An Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes	March 30, 1992
7438	An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof	April 27, 1992
8049	Anti-Hazing Act of 1995	June 7, 1995
9745	Anti-Torture Act of 2009	November 10, 2009
<b><i>III.19(1): Prohibiting excessive fines; cruel and degrading punishment</i></b>		
9346	An Act Prohibiting the Imposition of Death Penalty in the Philippines	June 24, 2006

Family as basic unit of society

Article II, Section 12 reads:

SEC 12. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally

protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.

**Table 8.** Related laws on family life

Republic Act (RA) No.	Title	Date Passed
6972	Barangay-Level Total Development and Protection of Children Act	November 23, 1990
7610	Special Protection of Children Against Abuse, Exploitation and Discrimination Act	June 17, 1992
8296	An Act Declaring Every December 7 as National Children's Broadcasting Day	June 6, 1997
8369	Family Courts Act of 1997	October 28, 1997
8533	An Act Nullifying the Prescriptive Period for Action or Defenses Grounded on Psychological Incapacity	February 23, 1998
8972	Solo Parents' Welfare Act of 2000	November 7, 2000
8980	Early Childhood Care and Development Act	December 5, 2000
9255	An Act Allowing Illegitimate Children to Use the Surname of their Father	February 24, 2004
9858	An Act Providing for the Legitimation of Children Born to Parents Below Marrying Age	December 20, 2009
10354	The Responsible Parenthood and Reproductive Health Act of 2012	December 21, 2012

Articles 256 to 259 of the Revised Penal Code (Act. No. 3815) also treats abortion as felony. Article 246 of the Revised Penal Code metes capital punishment to the killing of a father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of accused (parricide).

#### Youth in nation building

Article II, Section 13 provides:

SEC. 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

Below are extant legislative enactments promoting and protecting the physical, moral, spiritual, and social well-being of the youth.

**Table 9.** Youth-related laws

Republic Act (RA) No.	Title	Date Passed
6655	Free Public Secondary Education Act	May 26, 1988

Republic Act (RA) No.	Title	Date Passed
6728	Government Assistance To Students and Teachers in Private Education Act	June 10, 1989
6809	An Act Lowering the Age of Majority from 21 to 18	December 13, 1989
7079	Campus Journalism Act of 1991	July 5, 1991
7165	An Act Creating the Literacy Coordinating Council	November 25, 1991
7323	Special Program for Employment of Students Act	March 30, 1992
7624	An Act Integrating Drug Prevention and Control in the Intermediate and Secondary Curricula as Well as in the Non-Formal, Informal and Indigenous Learning Systems and for Other Purposes	July 11, 1992
7658	An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings	November 9, 1993
8043	Inter-Country Adoption Act of 1995	June 07, 1995
8044	Youth in Nation-Building Act	June 07, 1995
8369	Family Courts Act of 1997	October 28, 1997
8496	Philippine Science High School (PSHS) System Act of 1997	February 12, 1998
8552	Domestic Adoption Act of 1998	February 25, 1998

Gender equality and women's rights

Article II, Section 14 of the 1987 Constitution reads:

SEC. 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

The following are some of the well-known legislative policies enacted to promote gender equality and empower women.

**Table 10.** Women-related laws

Republic Act (RA) No.	Title	Date Passed
6725	An Act Strengthening the Prohibition on Discrimination against Women with Respect to Terms and Conditions of Employment, Amending for the Purpose Article One Hundred Thirty-Five of the Labor Code, as Amended	April 27, 1989
6972	Barangay-Level Total Development and Protection of Children Act	November 23, 1990
7192	Women in Development and Nation Building Act	December 11, 1991
7322	An Act Increasing Maternity Benefits in Favor of Women Workers in the Private Sector	March 30, 1992
7600	The Rooming-In and Breast-feeding Act of 1992	June 2, 1992
7688	An Act Giving Representation to Women in Social Security Commission, Amending for the Purpose Section 3(A) of Republic Act No. 1161, as Amended	March 3, 1994

Republic Act (RA) No.	Title	Date Passed
7822	An Act Providing Assistance to Women Engaging in Micro and Cottage Business Enterprises, and for Other Purposes	February 20, 1995
8353	The Anti-Rape Law of 1997	September 30, 1997
8369	Family Courts Act of 1997	October 28, 1997
9262	Anti-Violence Against Women and Their Children Act of 2004	March 8, 2004

### Right to health

The Constitution also guarantees people's right to health. Article II Section 15 reads:

SEC. 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.

In the legislative arena, this policy is concretized in the following enactments:

**Table 11.** Health-related laws

Republic Act (RA) No.	Title	Date Passed
7305	Magna Carta of Public Health Workers	March 26, 1992
7600	Rooming-In and Breast-feeding Act of 1992	June 2, 1992
7875	National Health Insurance Act of 1995	February 14, 1995
7883	Barangay Health Workers' Benefits and Incentives Act of 1995	February 20, 1995
8423	Traditional and Alternative Medicine Act (TAMA) of 1997	December 9, 1997
8503	Health Research and Development Act of 1998	February 13, 1998
10028	Expanded Breastfeeding Promotion Act of 2009	March 16, 2010
10069	An Act Declaring May 7 of Every Year as "Health Workers' Day"	April 6, 2010
10354	The Responsible Parenthood and Reproductive Health Act of 2012	December 21, 2012
10532	Philippine National Health Research System Act of 2013	May 7, 2013
10606	An Act Amending Republic Act 7875, Otherwise Known as the "National Health Insurance Act of 1995"	June 19, 2013
10611	Food Safety Act of 2013	August 23, 2013
10643	The Graphic Health Warnings Law	July 15, 2014
10645	An Act Providing for the Mandatory Philhealth Coverage for All Senior Citizens	November 5, 2014
10767	Comprehensive Tuberculosis Elimination Plan Act	April 26, 2016

### Right to a balanced and healthful ecology

Article II, Section 16 mandates, "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."

In the landmark case *Oposa v. Factoran* (G.R. No. 101083, 30 July 1993), it was held that such right may be enforced even in behalf of the generations of Filipinos yet unborn. *Oposa* was a legal milestone on many respects. For instance, not only was the suit filed in behalf of children and future generations (i.e., traditionally considered lacking *locus standi*) the ruling in the case also made environmental rights legally enforceable and self-executing. The traditional view used to look at state policies (such as environmental rights) as non-self-executing and, hence, requiring enabling laws to be binding (e.g., *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, G.R. Nos. 171947–48, 18 December 2008). In *Oposa*, the high court reiterated that the right to a balanced and healthful ecology need not be written in the Constitution for it is assumed, like other civil and political rights guaranteed in the Bill of Rights, to exist from the inception of mankind, as well as an issue of transcendental importance with intergenerational implications.

Since environmental rights are now enshrined as enforceable rights requiring no enabling legislation, government agencies may be compelled (via *mandamus*) to take coordinated action and put in place measures to prevent and control environmental hazards such as pollution (*Resident Marine Mammals of the Protected Seascape Tanon Strait v. Sec. Reyes*, G.R. No. 180771, April 21, 2015). One of the issues raised in *Marine Mammals v. Sec. Reyes* is if dolphins and marine mammals in a protected area can sue oil companies engaged in drilling and exploration in their habitat. The court ruled that the marine mammals have no legal standing but the suit was allowed because the lawyers who brought the suit impleaded themselves as co-petitioners of the embattled cetaceans. Citing *Oposa*, the court said any Filipino citizen, as a steward of nature, can bring a suit to enforce Philippine environmental laws.

Below are a number of laws enforcing the right to healthful ecology.

**Table 12.** Environment-related laws

Republic Act (RA) No.	Title	Date Passed
6967	An Act to Vest Control, Jurisdiction and Administration of the Forest Reserve in Mount Makiling in the University of the Philippines in Los Baños	October 15, 1990
6969	Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990	October 26, 1990
7076	People's Small-scale Mining Act of 1991	June 27, 1991
7161	An Act Increasing the Forest Changes on Timber and Other Forest Products	October 10, 1991
7586	National Integrated Protected Areas System Act of 1992	June 1, 1992
7611	Strategic Environmental Plan (SEP) for Palawan Act	June 19, 1992
8749	Philippine Clean Air Act of 1999	June 23, 1999
8970	An Act Prohibiting the Manufacture, Importation, Distribution and Sale of Laundry and Industrial Detergents Containing Hard Surfactants	October 31, 2000
8978	Mt. Kitanglad Range Protected Area Act of 2000	November 9, 2000
8991	Batanes Protected Area Act of 2000	January 5, 2001
9003	Ecological Solid Waste Management Act of 2000	January 26, 2001
9072	National Caves and Cave Resources Management and Protection Act	April 8, 2001

Republic Act (RA) No.	Title	Date Passed
9125	Northern Sierra Madre Natural Park (NSMNP) Act of 2001	April 22, 2001
9154	Mt. Kanlaon Natural Park (MKNP) Act of 2001	August 11, 2001
9512	National Environmental Awareness and Education Act of 2008	December 12, 2008
9729	Climate Change Act of 2009	October 23, 2009
10067	Tubbataha Reefs Natural Park (TRNP) Act of 2009	April 6, 2010
10121	Philippine Disaster Risk Reduction and Management Act of 2010	May 27, 2010
10174	An Act Establishing the People's Survival Fund to Provide Long-Term Finance Streams to Enable the Government to Effectively Address the Problem of Climate Change	August 16, 2012
10587	Environmental Planning Act of 2013	May 27, 2013

#### Right to education

Article II, Section 17 provides: “The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.” The following are some legislative enactments intended to concretize this policy.

**Table 13.** Laws on education

Republic Act (RA) No.	Title	Date Passed
10647	Ladderized Education Act of 2014	November 21, 2014
10650	Open Distance Learning Act	December 9, 2014
10679	An Act Promoting Entrepreneurship and Financial Education Among Filipino Youth	August 27, 2015
10687	Unified Student Financial Assistance System for Tertiary Education (UniFAST) Act	October 15, 2015
10691	An Act Defining the Role of the Department of Labor and Employment (DOLE), the Local Government Units (LGUs), and Accredited Nongovernment Organizations (NGOs) in the Establishment and Operation of the Public Employment Service Office (PESO), and the Operation of Job Placement Offices in Educational Institutions (EIs)	October 26, 2015
10847	An Act Lowering the Age Requirement for Applicants Taking the Board Examination for Social Workers, Providing for Continuing Social Work Education, and Upgrading the Sundry Provisions Relative to the Practice of Social Work	May 23, 2016
10871	Basic Life Support Training in Schools Act	July 17, 2016
10908	Integrated History Act of 2016	July 21, 2016
10931	Universal Access to Quality Tertiary Education Act	August 3, 2017
10968	Philippine Qualifications Framework (PQF) Act	January 16, 2018

## Right of workers

Article II, Section 18 provides: “The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.” Below are extant legislative enactments recognizing labor as an economic partner.

**Table 14.** Laws related to labor

Republic Act (RA) No.	Title	Date Passed
6640	An Act Providing for an Increase in the Wage of Public or Government Sector Employees on a Daily Wage Basis and in the Statutory Minimum Wage and Salary Rates of Employees and Workers in the Private Sector	December 10, 1987
6685	An Act Requiring Private Contractors to Hire Local Labor for National, Provincial, City and Municipal Public Works Projects	December 12, 1988
6715	An Act to Extend Protection to Labor, Strengthen the Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote the Preferential Use of Voluntary Modes of Settling Labor Disputes, and Reorganize the National Labor Relations Commission	March 2, 1989
6725	An Act Strengthening the Prohibition on Discrimination Against Women with Respect to Terms and Conditions of Employment	May 12, 1989
6727	Wage Rationalization Act	June 9, 1989
6971	Productivity Incentives Act of 1990	November 22, 1990
7111	Overseas Workers' Investment (OWI) Fund Act	August 22, 1991
7305	Magna Carta of Public Health Workers	March 26, 1992
7322	An Act Increasing Maternity Benefits in Favor of Women Workers in the Private Sector	March 30, 1992
7641	An Act Providing for Retirement Pay to Qualified Private Sector Employees in the Absence of Any Retirement Plan in the Establishment	December 9, 1992
7654	An Act Revising the Excise Tax Base and Allocating a Portion of the Incremental Revenue Collected for the Emergency Employment Program for Certain Workers	June 14, 1993
7699	Portability Law	May 1, 1994
7700	An Act Providing for Concurrent Jurisdiction Between and Among the First, Second and Third Divisions of the National Labor Relations Commission to Further Ensure Speedy Disposition of Cases	May 1, 1994
7730	An Act Further Strengthening the Visitorial and Enforcement Powers of the Secretary of Labor and Employment	June 2, 1994
7883	Barangay Health Workers' Benefits and Incentives Act of 1995	February 20, 1995
8042	Migrant Workers and Overseas Filipinos Act of 1995	June 7, 1995
8558	An Act Reducing the Retirement Age of Underground Mine Workers from Sixty (60) to Fifty (50)	February 26, 1998
9231	An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child	December 19, 2003
9347	An Act Rationalizing the Composition and Functions of the National Labor Relations Commission	June 24, 2006

Republic Act (RA) No.	Title	Date Passed
9422	An Act to Strengthen the Regulatory Functions of the Philippine Overseas Employment Administration (POEA)	April 10, 2007
9433	Magna Carta for Public Social Workers	April 11, 2007
9481	An Act Strengthening the Workers' Constitutional Right to Self-Organization	May 25, 2007
10022	An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995	March 8, 2010
10069	An Act Declaring May 7 of Every Year as "Health Workers' Day"	April 6, 2010
10151	An Act Allowing the Employment of Night Workers	June 21, 2011
10361	Domestic Workers Act / <i>Batas Kasambahay</i>	January 18, 2013
10395	An Act Strengthening Tripartism	March 14, 2013
10396	An Act Strengthening Conciliation-Mediation as a Voluntary Mode of Dispute Settlement for All Labor Cases	March 14, 2013
10691	An Act Defining the Role of the Department of Labor and Employment (DOLE), the Local Government Units (LGUs), and Accredited Nongovernment Organizations (NGOs) in the Establishment and Operation of the Public Employment Service Office (PESO), and the Operation of Job Placement Offices In Educational Institutions (EIs)	October 26, 2015
10741	An Act Strengthening the Operations of the National Labor Relations Commission	January 12, 2016
10757	An Act Reducing the Retirement Age of Surface Mine Workers from Sixty (60) to Fifty (50) Years	April 8, 2016
10789	Racehorse Jockey Retirement Act	May 3, 2016
10801	Overseas Workers Welfare Administration Act	May 10, 2016
10847	An Act Lowering the Age Requirement for Applicants Taking the Board Examination for Social Workers, Providing for Continuing Social Work Education, and Upgrading the Sundry Provisions Relative to the Practice of Social Work	May 23, 2016

#### Role of investment and the 'Filipino First' policy

Although the Constitution explicitly recognizes the primacy of labor as a social economic force, it does not imply degrading the role of capital in economic production. The underlying policy, in fact, has always been towards balancing the rights of labor with the interests of workers in economic activities (Panao and De Leon 2018).

Section 20 of Article II provides: "The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments." This protection can even be characterized as exclusive and Filipino-oriented, as Section 19 provides: "The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos." This 'Filipino first' policy was reiterated in *Manila Prince Hotel v. Government Service Insurance System (GSIS)* (G.R. No. 122156, February 3, 1997) where the high court upheld the right of Manila Prince Hotel to match the winning bid for GSIS shares on the Manila Hotel Corporation after losing earlier to Malaysian firm Renong Berhad. As Manila Hotel lost, GSIS declined to

surrender the shares so Manila Prince brought the suit to the high court arguing Manila Hotel is part of national patrimony and invoking the right to preferential concession under the ‘Filipino First’ policy. The high court also ruled that provisions covering Article XIII (National Economy and Patrimony) are self-executing and require no enabling law.

However, in recent years and after a number of landmark enactments, the ‘Filipino First’ policy has been relaxed to afford aliens greater economic participation. Some of these laws include:

**Table 15.** Related laws on investments

Republic Act (RA) No.	Title	Date Passed
7042	Foreign Investments Act of 1991	June 13, 1991
8179	An Act to Further Liberalize Foreign Investments	March 28, 1996
10881	An Act Amending Investment Restrictions in Specific Laws Governing Adjustment Companies, Lending Companies, Financing Companies and Investment Houses Cited in the Foreign Investment Negative List	July 17, 2016

Republic Act No. 8179 is a landmark as it liberalizes the extent foreign business entities can invest in the Philippines. Before its passage, the general rule restricts foreign investments to 40 percent. Under the new law, however, foreign investors are allowed up to 100% equity in companies engaged in almost all types of business activities, provided (a) the enterprises are not on the Negative List, (b) the country or state of the foreign investor also allows Filipinos and their corporations to do business in those countries (reciprocity), and (c) if the foreign investor is investing in a domestic enterprise, the domestic enterprise must have a paid-in capital equivalent to USD 200,000. Republic Act No. 10881, on the other hand, specifies the enterprises that fall under the Negative List.

Be that as it may, foreign equity is still not allowed in mass media except recording; practice of professions; retail trade enterprises with paid-up capital of not less than US\$2,500,000.00; cooperatives; private security agencies; utilization of marine resources in archipelagic waters, territorial sea, and exclusive economic zone; ownership, operation and management of cockpits; manufacture, repair, stockpiling and/or distribution of nuclear weapons; manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personal mines; and manufacture of firecrackers and other pyrotechnic devices.

Foreign corporations can own immovable property, including condominium units, as long as foreign equity in the corporation does not exceed 40 percent. Foreign corporations can also participate in the bidding of projects of the Philippine government. Also, the practice of professions by aliens are allowed in many instances provided the latter’s country extends such privilege (reciprocity) to qualified Filipino practitioners (*see Board of Medicine v. Ota*, G.R. No. 166097, July 14, 2008).

#### Rural development

Although Section 21 of Article II provides that “[t]he State shall promote comprehensive rural development and agrarian reform” the pursuit of an effective and genuine land reform has long been elusive. Less than a month before the ratification of the 1987 Constitution, for instance, agrarian workers and farmers marched near Malacañang Palace in Mendiola to demand land distribution from the Aquino government. As it is well known, the protesters were met by soldiers’

gunfire, killing and injuring several farmers—an incident that would haunt Aquino and her successors for many years and would have far-reaching implications on the agrarian reform programs in the country.

Corazon Aquino, the first president who served under the 1987 Constitution, happened to be a scion of one of the wealthiest families in Tarlac and heir to one of the most enduring agricultural estates in the province. Amidst mounting criticisms of Aquino and her background, Republic Act No. 6657 was signed into law in 1988 to provide the legal basis for the Comprehensive Agrarian Reform Program (CARP) under the 1987 Constitution. The law was intended to facilitate the redistribution of private and public agricultural lands to help beneficiaries survive as small independent farmers, regardless of tenurial arrangement. The law was not certainly the first attempt to institutionalize land redistribution. In fact, the law borrows heavily from former President Ferdinand Marcos' Presidential Decree No. 27 (the Code of Agrarian Reform of the Philippines) which created the Department of Agrarian Reform.

RA 6657 mandated the expropriation and redistribution of agricultural lands beyond five hectares to their tenant-farmers as an act of police power. Interestingly, the law also allowed corporate landowners to divest a proportion of their capital stock, equity, or participation in favor of their workers or other qualified beneficiaries in lieu of turning over their land for redistribution—a mechanism that was held to be valid under such “revolutionary kind of expropriation” (*see Association of Small Landowners v. Luz*, G.R. No. 78742, July 14, 1989).

Over the years, however, it became clear that the CARP did not achieve its target of redistributing land to farmers. Republic Act No. 9700 was enacted on August 2009 as an amendatory law extending the deadline for the distribution of agricultural lands for another five years. The law expired on June 30, 2014. Legislative policies covering land reform and redistribution are encompassed in the following related laws:

**Table 16.** Laws related to agrarian reform

Republic Act (RA) No.	Title	Date Passed
6657	Comprehensive Agrarian Reform Law of 1988	June 10, 1988
7881	An Act Amending Certain Provisions of Republic Act 6657	February 20, 1995
7905	An Act to Strengthen the Implementation of the Comprehensive Agrarian Reform Program	February 23, 1995
7907	An Act Amending the Code of Agrarian Reform in the Philippines	February 23, 1995
8532	An Act Strengthening Further the Comprehensive Agrarian Reform Program (CARP), by Providing Augmentation Fund Therefor	February 23, 1998
9700	Comprehensive Agrarian Reform Program Extension with Reforms (CARPER)	August 7, 2009
10000	Agri-Agra Reform Credit Act of 2009	February 23, 2010
10878	An Act Strengthening and Institutionalizing Direct Credit Support of the Land Bank of the Philippines to Agrarian Reform Beneficiaries, Small Farmers and Fisherfolk	July 17, 2016

### Right of indigenous cultural communities

The recognition and protection of the rights of indigenous cultural communities is also a declared policy. Section 22 provides: “The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.” The following are related legislative policies:

**Table 17.** Laws recognizing and protecting the rights of indigenous cultural communities

Republic Act (RA) No.	Title	Date Passed
7624	An Act Integrating Drug Prevention and Control in the Intermediate and Secondary Curricula as Well as in the Non-Formal, Informal and Indigenous Learning Systems and for Other Purposes	July 11, 1992
8371	The Indigenous Peoples Rights Act of 1997	October 29, 1997
10689	An Act Declaring August 9 as National Indigenous People’s Day	October 23, 2015
10908	Integrated History Act of 2016	July 21, 2016

### Sectoral and community-based participation

The 1987 Constitution also recognizes the role of people’s organizations in the democratic process. Article II, Section 23 provides: “The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.” We identify two important related legislations:

**Table 18.** Related legislations on sectoral and community-based participation

Republic Act (RA) No.	Title	Date Passed
7941	Party-List System Act	March 3, 1995
10070	An Act Establishing an Institutional Mechanism to Ensure the Implementation of Programs and Services for Persons with Disabilities	April 6, 2010

Of legislative policies that breathe life to sectoral participation as a constitutional mandate, Republic Act No. 7941 is probably among the most noteworthy not only because it serves as the legal basis for the party-list system, but also because of the notable controversies it sparked in recent years.

Enacted on March 1995, Republic Act No. 7941 or the Party-List System Act was intended as a mechanism to “develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible” (Section 2; *see also* Sec. 2, Par. 5, Art. IX-C, 1987 Constitution). Under Sec. 5, Par. 2, Art. VI, of the Constitution, party-list representatives shall constitute 20 percent of the total number of representatives in the House of Representatives (Sec. 5, Par. 2, Art. VI, 1987 Constitution).

But who are actually entitled to participate under the party-list system?

In *Ang Bagong Bayani v. COMELEC* (G.R. No. 147589, June 26, 2001), the high court regarded the party-list system as a vehicle of social justice and ruled that participating political parties, sectors, organizations or coalitions must represent the “marginalized and underrepresented” and those who “lack well-defined constituencies.” Although the party-list law did not define who are marginalized and underrepresented, *Ang Bagong Bayani* said they are exemplified by the groups identified in Section 5 of RA 7941 (labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals).

*BANAT v. COMELEC* (G.R. No. 179271, April 21, 2009) clarified that party-list organizations need not necessarily be poor or destitute since the law does not require a particular financial condition. “It is enough that the nominee of the sectoral party/organization/coalition belongs to the marginalized and underrepresented sectors, that is, if the nominee represents the fisherfolk, he or she must be a fisherfolk, or if the nominee represents the senior citizens, he or she must be a senior citizen,” said the High Court. *BANAT* also reiterated its ruling in *Veterans Federation Party v. COMELEC* (G.R. No. 136781, October 6, 2000) barring major political parties from directly or indirectly participating in the party-list elections.

However, the High Court in *Atong Paglaum Inc. v. COMELEC* (G.R. No. 203766, April 2, 2013) seemed to have taken a second thought and ruled that all along it has never been the legislative intent to make the party-list system exclusively sectoral. According to the Court, “the party-list system is composed of three different groups: (1) national parties or organizations; (2) regional parties or organizations; and (3) sectoral parties or organizations.” *Atong Paglaum* noted that sectoral parties are but one of these recognized groups. Moreover, national and regional parties or organizations need not even be organized along sectoral lines nor represent any particular sector. Noting that the prohibition against major political parties was limited to the 1988 party-list elections, the ruling now allows them to participate in future party-lists elections, provided it is through their respective sectoral wings.

The manner by which the current party-list system implements proportional representation is also a source of contention. Under the law, only parties, organizations, and coalitions garnering a minimum of two percent (2%) of total valid votes cast are qualified to hold a seat in the Lower House. The rationale is supposedly to give winning party list organizations a sense of legitimacy by encouraging them to work hard for their seats, as well as to ensure that only those with substantial following can be represented. However, Tangkia and Habaradas (2011) observed that over the years, the two-percent threshold seemed to have sowed further sectoral division and fragmentation, practically defeating the purpose of broadening participation. Kimura (2013) believes it may be necessary in the future to raise the threshold to three percent once the marginalized and underrepresented sectors have consolidated their ranks.

Section 11(b) of the Party-List Act also limits to three the number of seats that may be allocated to organizations or coalitions which hurdled the two percent vote threshold. Likewise, instead of encouraging sectoral coalitions, the rule breeds antagonism among party-list organizations who are induced to file separate accreditations before COMELEC. This animosity among sectoral organizations takes a toll on legislative effectiveness as its weaken their ability to advocate sector-specific measures and discourages collaboration between competing party-list organizations (Panao 2016).

Communication and information in nation building

Section 24 of Article II provides: “The State recognizes the vital role of communication and information in nation-building.” Although the Philippines lags behind its neighbors in many areas

of information and communications technology, the following are notable legislative enactments meant to narrow the gap.

**Table 19.** Related legislations on communication and information

Republic Act (RA) No.	Title	Date Passed
10173	Data Privacy Act of 2012	August 15, 2012
10844	Department of Information and Communications Technology Act of 2015	May 23, 2016

#### Autonomy of local governments

Article II, Section 25 provides: “The State shall ensure the autonomy of local governments.” Article X of the Constitution, on the other hand, lays down the general provisions governing local governments as territorial and political subdivisions. Below are extant legislative enactments related to local government.

**Table 20.** Related legislations on local government

Republic Act (RA) No.	Title	Date Passed
6644	An Act Reducing the Minimum Age of the Different Elective Local Officials	December 28, 1987
6686	An Act Authorizing Annual Christmas Bonus to National and Local Government Officials and Employees Starting CY 1988	December 14, 1988
6942	An Act Increasing the Insurance Benefits of Local Government Officials	April 4, 1990
6975	Department of the Interior and Local Government Act of 1990	December 13, 1990
7160	Local Government Code of 1991	October 10, 1991
7643	An Act to Empower the Commissioner of Internal Revenue to Require the Payment of the Value Added Tax Every Month and to Allow Local Government Units to Share in VAT Revenue	December 28, 1992
8185	An Act Amending Section 324(d) of Republic Act No. 7160	June 11, 1996
8245	An Act Appropriating the Sum of Fourteen Billion Four Hundred Fifty-Five Million Pesos (P14,455,000,000) for the Increased Share in 1997 of Local Government Units in the National Internal Revenue Taxes	December 30, 1996
8524	An Act Changing the Term of Office of Barangay Officials and Members of the Sangguniang Kabataan from Three (3) Years to Five (5) Years	February 14, 1998
9009	An Act Increasing the Average Annual Income Requirement for a Municipality or Cluster of Barangays to be Converted into a Component City	February 24, 2001
9164	An Act Providing for Synchronized Barangay and Sangguniang Kabataan Elections	March 19, 2002

Republic Act (RA) No.	Title	Date Passed
9207	National Government Center (NGC) Housing and Land Utilization Act of 2003	May 17, 2003
9244	An Act Eliminating the Preparatory Recall Assembly as a Mode of Instituting Recall of Elective Local Government Officials	February 19, 2004

#### Access to and accountability in public office

Section 26 of Article II provides: “The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law.”

As of writing, an enabling law defining political dynasties has yet to be passed. However, RA 10742 deserves mention as its Section 10 disqualifies Sangguniang Kabataan (SK) aspirants who are related within the second civil degree of consanguinity or affinity to any incumbent elected national, regional provincial, city, municipal, or barangay official, in the locality where the candidate seeks to be elected.

Section 27 of Article II, on the other hand, provides: “The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.” Related legislations that promote accountability in the public service include:

**Table 21.** Related legislations on accountability in public service

Republic Act (RA) No.	Title	Date Passed
6713	Code of Conduct and Ethical Standards for Public Officials and Employees	February 20, 1989
7080	An Act Defining and Penalizing the Crime of Plunder	July 12, 1991
9485	Anti-Red Tape Act of 2007	June 2, 2007
10742	Sangguniang Kabataan Reform Act of 2015	January 15, 2016
10910	An Act Increasing the Prescriptive Period for Violations of Republic Act 3019, Otherwise Known as the "Anti-Graft and Corrupt Practices Act", from Fifteen (15) Years to Twenty (20) Years	July 21, 2016
11032	Ease of Doing Business and Efficient Government Service Delivery Act of 2018	May 28, 2018

#### Full public disclosure in matters of public interest

Full public disclosure by government of all transactions involving public interest is an important mechanism of democratic accountability. Section 28 of Article II provides: “Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.” Interestingly, we have yet to find a legislative enactment explicitly related this provision.

## General welfare clause

The 1987 Constitution also contains a general welfare clause. Article II, Section 5 provides: “The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.” As this statement pertains to the state’s exercise of police power, it covers a broad span of policy areas ranging from regulatory laws and consumer protection to disaster mitigation. The latter includes Republic Act No. 10121 or the Philippine Disaster Risk Reduction and Management Act of 2010. Tax measures that are inherently regulatory than revenue-generating (e.g. sin taxes) also fall under these policies. Citizens find recourse not just in laws but also in administrative bodies specifically tasked to implement these principles. We see this in how the High Court in *Aowa Electronics v. Department of Trade and Industry (DTI)* (G.R. No. 189655, April 13, 2011) reminded the DTI of its task to protect consumers against deceptive, unfair, and unconscionable sales, acts, or practices, as defined in Articles 50 and 52 of the Consumer Act. Remedies can also be availed of in courts. *Moran v. Office of the President* (G.R. No. 192957, September 29, 2014) clarified that executive control over administrative agencies (such as the DTI) is not absolute, as when a special law provides appellate remedies in courts instead of the President. Examples of consumer protective policies include:

**Table 22.** Related legislations on consumer protection

Republic Act (RA) No.	Title	Date Passed
7394	Consumer Act of the Philippines	April 13, 1992
7581	Price Act	May 27, 1992
10611	Food Safety Act of 2013	August 23, 2013
10623	An Act Amending Certain Provisions of Republic Act 7581	September 6, 2013
10642	Philippine Lemon Law	July 15, 2014
10909	No Shortchanging Act of 2016	July 21, 2016

## Conclusion

The paper surveyed extant legislative enactments that breathe life to state principles and policies enshrined in Article II of the 1987 Constitution. Our theoretical motivation is anchored on the idea that the declared principles is a blueprint for governance and set forth the extent and limits of the exercise of the state’s powers under the proverbial social contract.

Admittedly, the preceding list is not exhaustive. In reality, policies may encompass more than one state principle and may overlap. Similarly, there are legislative enactments which were not included in the list because they do not pertain to a specific declared policy although they address concrete social, economic, and political issues.

These gaps will be tackled in subsequent chapters.

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# The Power of Impeachment

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The power to impeach public officials is a vital institutional design lodged in the post-EDSA Constitution. According to Section 1, Article X of the 1987 Constitution, public office is a public trust. In order to exact accountability among officials of the government, particularly those who occupy the highest positions, the Constitution laid out several provisions discussing the process of impeachment—a means to remove from office those who were proven to violate the ‘public trust.’ Since 1987, however, as the country’s contemporary political history would reveal, the process has been both used to prosecute allegedly corrupt officials and abused by some for political ends. Though the process is political in nature, the manner in which it has been utilized by political actors has drawn mixed reactions. This section narrates the history of impeachment in the Philippines.

## Provisions on Impeachment

To impeach is to indict. Article X (Accountability of Public Officers) provides the mechanism by which officials can be removed from office through impeachment. Section 2 of the said article enumerates the officials who may be impeached, namely, the President, the Vice-President, the members of the Supreme Court, the members of the Constitutional Commissions, and the Ombudsman. The grounds for impeachment of these officials include culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, and betrayal of public trust.

The exclusive power to initiate all impeachment processes rests with the House of Representatives (Section 3(1)). A case, or ‘verified complaint,’ may be filed by a member of the chamber or any citizen as long as there is endorsement from any member of the House of Representatives. The verified complaint is referred to a committee, which hears and decides on the complaint’s formal and substantive merits. Upon a majority vote of the committee members, the complaint is submitted to the plenary for its consideration (Section 3(2)). A one-thirds ( $\frac{1}{3}$ ) vote in the plenary is required for the complaint to be transmitted to the Senate for a trial (Section 3(3)). However, if one-third ( $\frac{1}{3}$ ) of the House already endorsed the complaint, it automatically becomes the articles of impeachment and dispenses with the committee-level process (Section 3(4)).

Upon receipt of the verified complaint from the House, the Senate convenes itself as an impeachment court. Section 3(6) states that only the Senate has the sole power to try and decide

on impeachment cases. In convicting an official, the Senate needs a two-thirds ( $\frac{2}{3}$ ) majority vote (Section 3(6)) and may only cause the removal of the official concerned from office and disqualification to hold any office under the Republic of the Philippines (Section 3(7)). The Chief Justice presides over when the President is on trial, but is not allowed to vote.

In order to limit the number of impeachment cases filed against an official, Section 3(5) provides that “no impeachment proceedings shall be initiated against the same official more than once within a period of one year.”

These provisions have guided the filing of impeachment cases in the past. However, there were departures and informalities employed in order to facilitate or delay the processing of complaints. The next section looks at the experiences on filing impeachment.

## Impeachment in History

How many impeachment cases were filed since 1987? Who were the personalities involved? How many of these cases were successfully heard and tried?

Before 1987, complaints have been filed against at least three Philippine presidents: Elpidio Quirino in 1949, Diosdado Macapagal in 1964, and Ferdinand Marcos in 1985 (National Government Portal 2014; Orosa 2014). All three complaints were dismissed. Under the 1987 Constitution, impeachment complaints were filed for five of the six presidents: Corazon Aquino in 1988, Joseph Estrada in 2000, Gloria Arroyo in 2005, 2006, 2007, and 2008, Benigno Aquino III in 2014, and Rodrigo Duterte in 2017 (Rappler.com 2017; National Government Portal 2014; Orosa 2014). Only Fidel Ramos, a former military general and armed forces chief-of-staff, managed to finish his term without an impeachment complaint filed against him. Table 1 summarizes the impeachment complaints filed against Philippine presidents since 1987.

**Table 1.** Impeachment complaints filed against Philippine presidents

President	Year/s	Alleged Violation
Corazon Aquino	1988	Graft and violation of the Constitution
Fidel Ramos	None	None
Joseph Estrada	2000	Bribery, graft and corruption, betrayal of public trust, and culpable violation of the Constitution
Gloria Macapagal-Arroyo	2005, 2006, 2007, 2008	Graft and corruption, betrayal of public trust, and culpable violation of the Constitution
Benigno Aquino III	2014	Bribery, betrayal of public trust and culpable violation of the constitution
Rodrigo Duterte	2017	Betrayal of public trust, bribery, culpable violation of the constitution and other high crimes, graft and corruption

*Sources:* Orosa 2014; National Government Portal 2014; Rappler.com 2017

Of these attempts, only one managed to reach the Senate for trial. On November 2000, Estrada was impeached<sup>1</sup> by the House under Speaker Manny Villar (Kasuya 2005). The trial lasted for 23 days from December 2000 to January 2001, with more than 30 witnesses. It was the first nationally

<sup>1</sup> For the full story on the day of impeachment, see Fuller and International Herald Tribune 2000.

televised impeachment trial of a president in Philippine political history which added much pressure to the process as well as the actors involved (*see* Coronel 2000). Such a situation heightened public discourse on the issue as the nation watched each witness' testimony, and even as Estrada's public life unraveled even more in the public eye. It culminated in another people's uprising in EDSA. What triggered this uprising was the opening of the 'second envelope' which supposedly contained evidence that would further incriminate Estrada. However, of the 21 senator-judges, excluding the senate president, 11 voted to keep the envelope closed while others walked out of the trial. The Senate never finished the trial. Estrada was removed via extra-constitutional means, which was later recognized by the Supreme Court as valid and deemed Estrada as resigned.<sup>2</sup> Gloria Macapagal-Arroyo subsequently assumed the presidency amidst much controversy on whether Estrada resigned or not.

The ouster of Estrada via extra-constitutional means or in what has been dubbed as People Power 2,<sup>3</sup> is regarded by some as a failure of the impeachment as a constitutional recourse to remove a sitting president. The controversy surrounding the assumption into office of Macapagal-Arroyo compounded this situation. Instead of relying on the constitutional process, the Filipino people once again turned to the streets to remove its leader, 15 years after the Marcos ouster, in the same manner. Nonetheless, the legitimacy of the impeachment process did not wane in the succeeding years. After Estrada's ouster, he was charged and found guilty in court and was on house arrest for many years, until Arroyo pardoned him. He currently sits as Manila City Mayor.

Aside from presidents, impeachment complaints were also filed against other officials. Impeachment complaints were filed against two Ombudsmen: Aniano Desierto in 2001 and Merceditas Gutierrez in 2011 (Diaz 2001; Johnson 2011). While the Desierto impeachment failed to reach the House plenary, Gutierrez was actually impeached by the House (*see* Johnson 2011). However, even before the trial in the Senate began, Gutierrez already resigned from office (The Associated Press 2011). COMELEC chairpersons and commissioners were also subjects of impeachment complaints: Luzviminda Tancangco in 2003, Benjamin Abalos, Sr. in 2007, and J. Andres Bautista in 2017 (Diaz 2002, 2007; The Philippine Star 2017). Of the three, only Bautista was impeached by the House. But prior to his impeachment, Bautista already filed his resignation as chairperson of the commission (The Philippine Star 2017).

In the judiciary, three chief justices became subjects of impeachment: Hilario Davide, Jr. in 2003, Renato Corona in 2012, and Maria Lourdes Sereno in 2018 (Vera Files 2017). Davide's impeachment needed the Supreme Court intervention since the House of Representatives dismissed a complaint in June 2003 and endorsed a second one by October of the same year (Sy 2003). Clearly a violation of the constitutional ban, the impeachment of Davide was set aside.

Corona's impeachment in 2012 was the only completed impeachment proceeding so far. Prior to the filing of impeachment, then President Benigno Aquino III already expressed his reservations about the appointment of Corona as chief justice, considering it as a form of midnight appointment by former President Arroyo.<sup>4</sup> With sufficient number of House members supporting the impeachment of Corona, the plenary endorsed the articles for impeachment without passing through committee deliberations. The trial in the Senate started in January 2012 and ended May of the same year. For 38 days, the Senate, sitting as the impeachment court, tried and heard Corona on three of the eight articles of impeachment. These three are:

<sup>2</sup> For a narration on the fall of Estrada, *see* Doronila 2001.

<sup>3</sup> This is in reference to People Power 1 in February 1986 which led to the ouster of President Ferdinand Marcos.

<sup>4</sup> The trial was itself marred with controversies. For an extensive discussion on the framing of the Corona Impeachment, *see* Socrates 2015.

- (1) failure to disclose to the public his statement of assets, liabilities, and net worth as required under the constitution (second article);
- (2) failure to meet and observe the stringent standards under the constitution that provides that “[a] member of the judiciary must be a person of proven competence, integrity, probity, and independence” (third article); and
- (3) partiality in granting a temporary restraining order (TRO) in favor of former president Gloria Macapagal-Arroyo and her husband Jose Miguel Arroyo in order to give them an opportunity to escape prosecution and to frustrate the ends of justice (seventh article).

Of the three, the Senate convicted Corona based on the second article with a vote of 20-3.<sup>5</sup>

Corona’s removal from office led to the appointment of Sereno as Chief Justice. However, six years later, she would eventually be the subject of another impeachment complaint. Sereno was vocal about her criticism against the policies of President Duterte, especially after Duterte named several judges as peddlers of drug personalities (Torres 2016). Irked by the criticisms, Duterte started to talk against Sereno publicly. This has culminated to an impeachment complaint filed by lawyer Larry Gadon. After several hearings in the House Justice Committee, the complaint was endorsed to the plenary. The process was stalled by a *quo warranto* petition filed by the Solicitor General. The Supreme Court later ruled that the appointment of Sereno was void *ab initio* and granted the *quo warranto* petition (Patag 2018). Rendered moot and academic, the impeachment complaint was set aside. Table 2 summarizes the complaints filed against other impeachable officials.

**Table 2.** Impeachment complaints filed against other impeachable officials

Official	Position	Year/s
Aniano Desierto	Ombudsman	2001
Luzviminda Tancangco	COMELEC Commissioner	2003
Hilario Davide, Jr	Chief Justice	2003
Benjamin Abalos, Jr	COMELEC Chairperson	2007
Merceditas Gutierrez	Ombudsman	2011
Renato Corona	Chief Justice	2012
J. Andres Bautista	COMELEC Chairperson	2017
Maria Lourdes Sereno	Chief Justice	2018
Teresita Leonardo-De Castro	Associate Justice (at the time of filing)	2018
Diosdado Peralta	Associate Justice	2018
Lucas Bersamin	Associate Justice	2018
Francis Jardeleza	Associate Justice	2018
Samuel Martires	Associate Justice	2018
Noel Tijam	Associate Justice	2018
Andres Reyes Jr.	Associate Justice	2018
Alexander Gesmundo	Associate Justice	2018

**Sources:** National Government Portal 2014; The Philippine Star 2017; Porcalla 2018

<sup>5</sup> To access the documents related to the Corona Impeachment, see National Government Portal 2012.

Arguably, the filing of impeachment against officials has been used to threaten officials who are critical of Duterte's policies. This includes threats of impeachment towards Ombudsman Conchita Carpio Morales (Esmague 2017). Volunteers Against Crime and Corruption (VACC), a group supporting Duterte, filed an impeachment complaint against the Ombudsman, but it did not get any endorsement from any member of the House of Representatives (Buan 2017). An impeachment complaint was also filed against Vice President Leni Robredo in 2017, but it did not prosper (Mogato 2017).

But the same can be said the other way around. Impeachment was also used against those who allegedly supported Duterte's agenda. After the Supreme Court ruled on the *quo warranto* petition and days before the appointment of Teresita Leonardo-De Castro as chief justice, some members of the House of Representatives from the 'minority'<sup>6</sup> wing filed impeachment complaints against the justices who voted in favor of the petition (Porcalla 2018). The justices are Teresita Leonardo-De Castro, Diosdado Peralta, Lucas Bersamin, Francis Jardeleza, Samuel Martires, Noel Tijam, Andres Reyes Jr., and Alexander Gesmundo. Under the new House Speaker, Gloria Macapagal-Arroyo, the impeachment complaint filed against the eight were dismissed.

The impeachment processes in the post-Marcos period have become venues in looking at the political dynamics of legislative-executive relations. Because the House of Representatives has been historically allied with the President, its legitimacy in deciding on impeachment cases against those politically close to the Commander-in-Chief, is usually questioned by the public. This is also the case of the Senate, whose leadership is usually chosen by the majority coalition allied with the President. While indeed, impeachment is supposed to be a political process, its legitimacy as a tool in holding erring public officials should never be compromised.

In view of the Duterte Administration's campaign to revise the 1987 Constitution, will there be attempts to change the impeachment process? Will the list impeachable officials expand or shorten? Will the impeachable offenses be clearer or be more vague? How will the framers of the new constitution strengthen the mechanisms of exacting accountability from the top officials of the land? Will it be possible to find ways for impeachment not to be used for purely political gains as seen in the different experiences and make the process more meaningful?

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# A Timeline of the Philippine Peace Processes

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The two biggest ongoing internal conflicts in the Philippines are the conflict with the Communist Party of the Philippines and its armed wing, the New People's Army (CPP-NPA) and the Bangsamoro conflict with the Moro National Liberation Front (MNLF) and later, the Moro Islamic Liberation Front (MILF).

Over the course of these conflicts, the 1987 Constitution has been both a tool and an obstacle for the Government of the Republic of the Philippines (GRP) in forging peace agreements with these parties. The Hague Joint Declaration identifies “political and constitutional reforms” as one of the four substantive agenda of the GRP-CPP peace talks, while Article X of the 1987 Constitution explicitly mandates the creation of an autonomous region in Muslim Mindanao in response to the conflict with the MNLF and MILF.

Below is a timeline of significant documents signed and other milestones during these peace processes.

## **Timeline of Negotiations with CPP (Communist Party of the Philippines)-NPA (New People's Army)-NDF (National Democratic Front) (see RSJ, GMA News 2017)**

Founded in 1968, the Communist Party of the Philippines (CPP), along with its armed wing, the New People's Army (NPA) founded in 1969, and its politico-diplomatic front, the National Democratic Front (NDF) founded in 1973, enjoyed strong social support as the loudest voice of opposition during the Marcos dictatorship (Hutchcroft and Rocamora 2003). The NPA was estimated to have 7,000 full-time fighters and 20,000 part-time guerillas by the time Marcos was deposed in 1986 (Rivera 1994). However, due to their decision to boycott the 1986 snap elections, the CPP-NPA-NDF were not represented in the Aquino government that formed after the EDSA revolt. Thus, following the release of a number of NDF leaders who were imprisoned during the Marcos dictatorship, the Government of the Republic of the Philippines (GRP) and the CPP-NPA-NDF entered into peace talks in December of 1986. This was short-lived, however, as peace talks broke down following the Mendiola Massacre of January 1987, which saw thirteen (13) protesting farmers killed during a demonstration demanding action on land reform policy (Rocamora 1991).

- 1 September 1992: Signing of Hague Joint Declaration (HJD) between the NDF and GRP under President Fidel Ramos

Talks resumed under President Fidel Ramos, with the GRP and NDF signing the Hague Joint Declaration soon after he took office. The Hague Joint Declaration laid out the substantive agenda of the peace talks: (1) human rights and international humanitarian law; (2) social and economic reforms; (3) political and constitutional reforms; and (4) end of hostilities and disposition of forces. It also laid out that “mutually acceptable principles including national sovereignty, democracy, and social justice shall serve as the framework of the peace negotiations” (Rivera 1994).

- 24 February 1995: Signing of Joint Agreement on Safety and Immunity Guarantees (JASIG) between NDF and GRP

The JASIG provides safety and immunity guarantees protecting any personnel involved in the GRP-NDF peace talks (Brillantes and Tiusongco 2005). Notably, the JASIG replaced the Memorandum of Agreement on Safety and Immunity Guarantees and Physical Centers and Facilities signed by the NDF and the GRP under President Aquino, which CPP Chairman Jose Maria Sison opposed as it categorically stated that it “shall not invest in the NDF with the status of belligerency under the laws of war.” Such a status is attained should other states treat the rebel force as a sovereign power (Quimpo 2006).

- 16 March 1998: Signing of Comprehensive Agreement to Respect Human Rights and International Humanitarian Law (CARHRIHL) between CPP-NPA-NDF and GRP

This is the first and, so far, only GRP-NDF agreement addressing the four (4) substantive agenda outlined in the HJD. Though the NDF signed the agreement soon after it was released, the GRP waited until the beginning of the Estrada administration through Memorandum Order 9, which also stipulates that CARHRIHL’s implementation would be “in accordance with the constitution and legal processes of the Republic of the Philippines.” The Joint Monitoring Committee for the CARHRIHL continues to receive human rights complaints lodged against the GRP and CPP-NPA-NDF (Quimpo 2006).

- 27 May 1999: Senate ratifies Visiting Forces Agreement with the United States (US)

The NDF recognized the “de facto” termination of peace talks two days later due to their opposition to the agreement. The GRP under President Joseph Estrada formally terminated peace talks four days later, also terminating the JASIG in the process (Brillantes and Tiusongco 2005). He then adopted a policy of all-out war against the CPP-NPA-NDF the following year. The policy would last until his ouster in January 2001 (Quimpo 2006).

- 9 March 2001: Peace talks resume under President Gloria Macapagal-Arroyo

Soon after assuming office in the wake of the EDSA II revolt in which legal organizations affiliated with the national democratic left participated, President Macapagal-Arroyo resumed peace talks with the NDF, even acceding to the demand that talks be held outside the Philippines in Oslo, Norway. In the May 2001 midterm elections, she endorsed a partylist from the national democratic left, Bayan Muna, which would go on to top the election for partylist seats. However, talks stalled after the United States and European Union included the CPP-NPA on a list of foreign terrorist organizations without opposition from the GRP (Quimpo 2006). Though several attempts to revive the peace talks were made, including the GRP’s

reaffirmation of the HJD and JASIG in January 2004, the last round of talks under President Macapagal-Arroyo broke down over the GRP's insufficient action towards having the terrorist tag lifted (Santos 2010).

- 15 February 2011 – 27 April 2013: Resumption of formal talks under President Benigno Aquino III; talks break down over disagreements on Oplan Bayanihan and the 4Ps program
- 22 August 2016 – 27 May 2017: Peace talks resume on and off after GRP under President Rodrigo Duterte and CPP-NPA both declare unilateral ceasefires; the last round of peace talks formally end over the declaration of Martial Law in Mindanao during the Battle of Marawi.

Under President Duterte, significant progress was made towards crafting a Comprehensive Agreement on Social and Economic Reforms (CASER), the second substantive agenda stipulated in the HJD. The NDF also expressed a willingness to craft a Comprehensive Agreement on Political and Constitutional Reform (CAPCR) within the framework of federalism, which President Duterte advocates. However, no agreement was signed before talks broke down. Prior to taking office, President Duterte had announced that UP Professor Judy Taguiwalo and former Anakpawis Representative Rafael Mariano, who were nominated by the NDF, would be his secretaries for Social Welfare and Development and Agrarian Reform, respectively. However, they were rejected by a Congressional Commission on Appointments dominated by President Duterte's allies soon after the peace talks broke down.

- 19 July 2017: GRP cancels back channel talks with NDF after an attack on a Presidential Security Group Convoy in Arkan, Cotabato
- 23 November 2017: Signing of Proclamation No. 360 canceling peace talks with the CPP-NPA-NDF
- 5 December 2017: Signing of Proclamation No. 374 declaring the CPP-NPA a terrorist group

### **Timeline of Conflict with Moro National Liberation Front (MNLF) and Moro Islamic Liberation Front (MILF)**

Though informed by centuries of marginalization by the Christian majority, particularly with respect to issues of land ownership and resettlement in Mindanao, the Moro struggle identifies the Jabidah Massacre of March 1968 as its precipitating cause. The Jabidah Massacre saw somewhere between eleven (11) and sixty-eight (68) Muslim soldiers, allegedly recruited to infiltrate Sabah, a territory contested by the Philippines and Malaysia, summarily executed at Corregidor following an alleged mutiny. A number of massacres were also committed by Christian settlers on the Muslim population in relation to the local elections of 1971 (Majul 1988). In response to this violence against the Muslim population, the Moro National Liberation Front (MNLF) led by Nur Misuari was formed with the goal of seceding from the Philippines. This secessionist movement was one of the reasons cited for the declaration of Martial Law in September 1972. The Organization of the Islamic Conference (OIC), which had raised concerns over the treatment of Muslims in the Philippines prior to the Martial Law period, recognized the MNLF as the sole representative of Muslims in the Philippines and pressured the Government of the Republic of the Philippines (GRP) to negotiate with them. After failed talks in 1975, government efforts aimed at improving the welfare

of the Muslim population allowed another series of talks to take place, which eventually resulted in the Tripoli Agreement, signed on 23 December 1976 (Majul 1988).

- 23 December 1976: Signing of Tripoli Agreement between MNLF and Government of the Philippines (GPH) under President Ferdinand Marcos

The Tripoli Agreement contained autonomy provisions for thirteen (13) provinces. A referendum was held in March of 1977, leading to the formation of Regions IX and XII. The MNLF, however, contended that the referendum included demands that were merely points for discussion at the time and had its results rigged. In addition, the establishment of two regions as opposed to one and the exclusion of three of the 13 provinces agreed upon led the MNLF to conclude in 1981 that the autonomy promised by the Tripoli Agreement did not exist and to continue demanding independence. During this time, Hashim Salamat contested Misuari for leadership of the MNLF over accusations of the latter supporting communism and favoring Sulu. Salamat's faction named itself the Moro Islamic Liberation Front (MILF) in 1985 (Majul 1988).

- 4 January 1987: Signing of Jeddah Accord between MNLF and GPH under President Corazon Aquino

Talks between the camp of President Corazon Aquino and Nur Misuari took place prior to the snap elections of February 1986. Her late husband, Sen. Benigno Aquino Jr. had exposed the Jabidah Massacre in 1968 and had met with Misuari in 1981 to advocate the resumption of GRP-MNLF peace talks, while her brother-in-law, Agapito Aquino, would later meet with Misuari as part of her campaign. Talks would continue into her presidency resulting in the signing of the Jeddah Accord to continue the discussions on autonomy. Included in the discussions was a proposal to suspend the implementation of provisions pertaining to autonomy in Muslim Mindanao in the proposed 1987 Constitution. However, President Aquino did not follow through on this proposal (Majul 1988).

- 2 February 1987: Ratification of 1987 Philippine Constitution; Article X makes mention of an Autonomous Region of Muslim Mindanao

Talks would continue following the ratification of the 1987 Constitution until May of 1987 over disagreements on the territory to be given autonomy and on the process for democratic consultation. With the Philippine Congress re-established after the 1987 elections, President Aquino appointed a Regional Consultative Commission to propose legislation to establish the Autonomous Region in Muslim Mindanao (ARMM) (Majul 1988).

- 1 August 1989: ARMM established with passage of Republic Act (RA) No. 6734

Though RA 6734 was passed, only four (4) out of the thirteen (13) provinces identified in the Tripoli Agreement voted in favor of joining ARMM in the plebiscite that followed. Notably, the MNLF did not participate in this process (May 2001).

- 2 September 1996: Signing of "Final Peace Agreement" (FPA) between MNLF and GRP under President Fidel Ramos

President Ramos resumed peace talks with the MNLF soon after taking office. These talks eventually yielded the Final Peace Agreement between the GRP and MNLF, which stipulated the creation of a Special Zone of Peace and Development (SZOPAD) including fourteen (14) provinces and nine (9) cities in Mindanao to be governed by a Southern Philippines Council

for Peace and Development chaired by Nur Misuari, who would also run unopposed for and be elected as ARMM governor a few days later. Under this agreement, MNLF forces began demobilizing (Buendia 2004).

- 18 July 1997: Signing of GRP-MILF Agreement for the General Cessation of Hostilities

Hashim Salamat's MILF adopted a wait-and-see approach to the GRP-MNLF peace negotiations and were not a party to the 1996 Final Peace Agreement. The 1997 agreement marked the formal start of GRP-MILF peace talks (Buendia 2004).

- 27 August 1998: Signing of the General Framework of the Agreement of Intent (GFAI) between the MILF and the GRP under President Joseph Estrada

Though the Estrada administration continued the peace talks with the MILF initiated by President Ramos at first, President Estrada would disregard the GFAI signed by his administration when he declared all-out war on the MILF. Peace talks did not resume until after President Estrada was deposed during the EDSA II revolt (Buendia 2004).

- 24 March 2001: Signing of Agreement of the General Framework for the Resumption of Peace Talks between MILF and GPH under President Gloria Macapagal-Arroyo

Peace talks resumed soon after President Macapagal-Arroyo took office. Though they were stalled in 2003 due to a military campaign launched in Buliok, North Cotabato on Eid'l Adha, they would resume in 2004 (Tuminez 2007).

- 31 March 2001: Passage of RA 9054 expanding the powers and territory of the ARMM

A plebiscite was held in the SZOPAD for inclusion in ARMM, though only the province of Basilan and the city of Marawi were added as a result. RA 9054 also included provisions on Muslim representation in national bodies such as the Cabinet and the Supreme Court, though these provisions have rarely been implemented. Also, Nur Misuari would take up arms against the Philippine government when Pres. Macapagal-Arroyo supported a rival for the ARMM governorship in 2001. Misuari was later arrested (Tuminez 2007).

- 27 July 2008: Signing of Memorandum of Agreement on Ancestral Domain (MOA-AD) between MILF and GRP

The MOA-AD was signed between the GRP and MILF stipulating the creation of a Bangsamoro Juridical Entity wherein plebiscites would be held in a number of sub-provincial Muslim majority areas for inclusion. It also identified another set of areas for development projects with a plebiscite to be held at some later date. Local government leaders against the MOA-AD were able to secure a temporary restraining order from the Supreme Court prohibiting the GRP peace panel from signing the MOA-AD. In the face of growing opposition, the Arroyo administration withdrew its support from the MOA-AD and dissolved the GRP peace panel. On 14 October 2008, the Supreme Court declared the MOA-AD unconstitutional. During this time, violence in Mindanao increased. The Arroyo administration reconstituted the GRP peace panel in December, but no progress would be made on the peace talks for the rest

of her term (Williams 2010).

- 15 October 2012: Signing of Framework Agreement on the Bangsamoro (FAB) between MILF and GPH under President Benigno Aquino III
- 9–28 September 2013: Zamboanga Siege by MNLF
- 27 March 2014: Signing of Comprehensive Agreement on the Bangsamoro (CAB) between MILF and GPH
- 25 January 2015: Mamasapano Incident; Bangsamoro Basic Law later fails to pass in Congress

Peace talks resumed under the Aquino administration, leading up to the signing of the FAB in 2012 and CAB in 2014 between the GRP and MILF. Nur Misuari led the Zamboanga Siege in 2013 to oppose the alleged exclusion of the MNLF in the signing of the FAB, despite the inclusion of other factions of the MNLF in the negotiations. The passage of the Bangsamoro Basic Law, a milestone in the CAB was derailed by the Mamasapano Incident, which saw forty-four (44) officers of the Special Action Force of the Philippine National Police killed in an encounter that involved MILF combatants due to miscommunication between the GRP and MILF (Franco 2017). During the deliberations on the BBL, questions of whether it was consistent with the provisions pertaining to the autonomy in Muslim Mindanao in Article X of the 1987 Constitution were often raised.

- 26 July 2018: Passage of the Bangsamoro Organic Law (BOL) under President Rodrigo Duterte
- The BOL replaces the ARMM with the Bangsamoro Autonomous Region, which increases the ARMM's territory, institutes a parliamentary regional government, expands the coverage of Shari'a Law in the region, and increases the region's fiscal autonomy. A referendum to ratify the BOL in the proposed Bangsamoro Autonomous Region will be held on 21 January 2019.

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# Approval Ratings and Surveys Since 1986

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The 1987 Constitution was formed under a revolutionary government whose legitimacy was based not on a clear-cut electoral victory but “a direct exercise of the power of the Filipino people.” In addition, the Constitutional Commission that drafted the 1987 Constitution was composed of appointed rather than elected delegates. Though the evidence that the process of constitution-making has significant effects on the legitimacy of the resulting document and the institutions that it creates is mixed (Ginsburg, Elkins, and Blout 2009), assessing legitimacy of the institutions created under this Constitution is an interesting area of study.

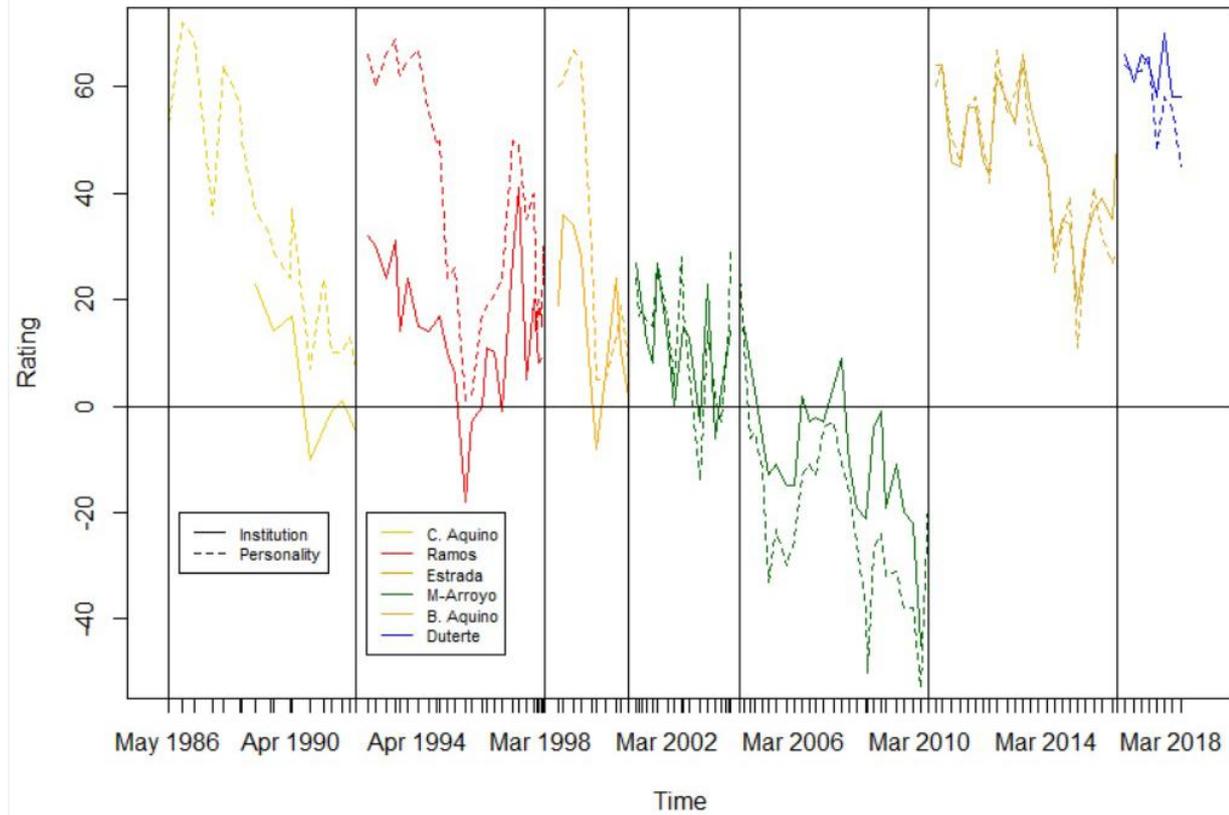
The Social Weather Stations (SWS) has been conducting opinion polls on satisfaction with the President since 1986, soon after the restoration of democracy following the Marcos dictatorship, while satisfaction with the Senate President and Speaker of the House of Representatives have been polled by the institution since 1990, three years after the first congressional elections under the 1987 Constitution. One opinion poll on the approval rating of the Chief Justice was held in 1986, though such polls would only be done regularly starting in 1990, alongside polls for the Senate President and the Speaker of the House of Representatives.

On the other hand, the SWS began measuring satisfaction with the National Administration—as distinct from satisfaction with the President—in 1989 and satisfaction with the Supreme Court—as distinct from satisfaction with the Chief Justice—in 1990. In contrast, polls on satisfaction with the Senate and House of Representatives began in 1988, two years before polls on satisfaction with their respective leaders were conducted.

Since 1990, the SWS has regularly polled satisfaction with institutions as separate from satisfaction with specific personalities. This data is used to answer the following question: Is institutional approval largely the same as approval for that institution’s leader, or do these two statistics diverge? Should the former be true, then this supports the argument that Philippine politics is largely personalistic, while the latter would indicate that Filipinos distinguish the institution from the leader, suggesting some level of institutionalization for these Constitutional bodies.

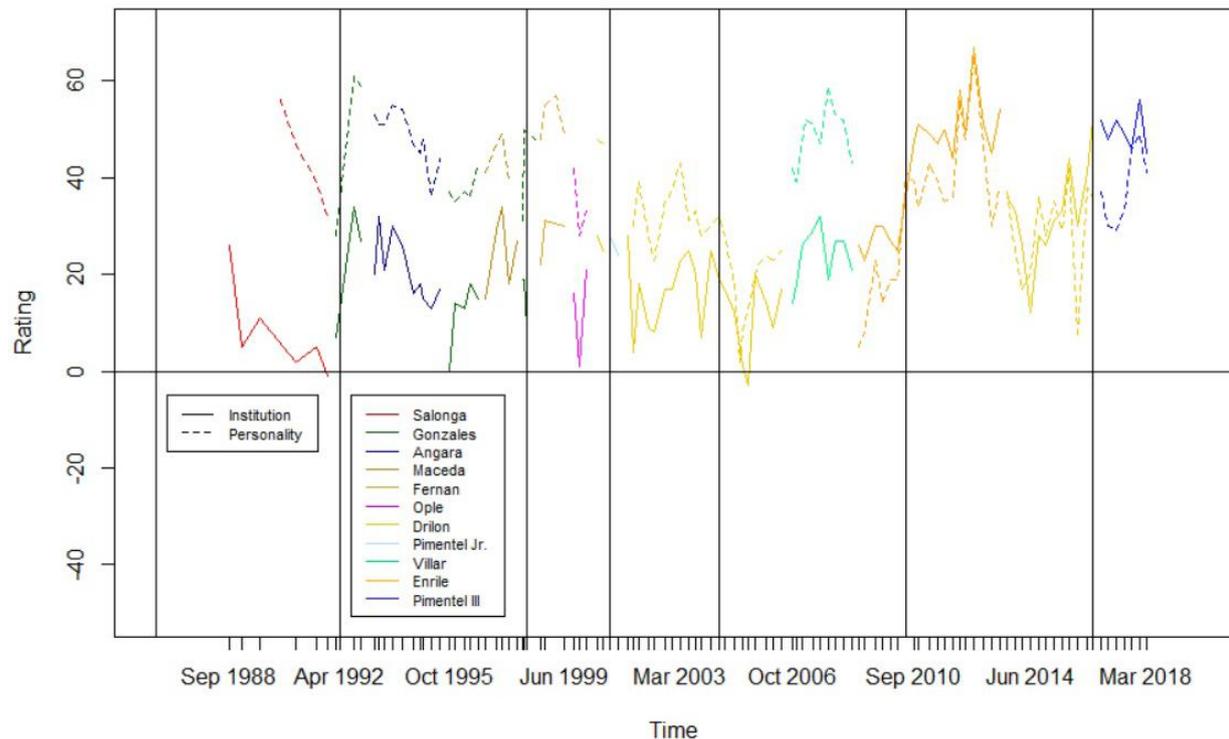
Figures 1 to 4 below show the approval ratings of the institution plotted against the approval ratings of its leader over time for the National Administration, Senate, House of Representatives, and Supreme Court, respectively. In all figures, the broken line represents the leader, while the solid line represents the institution.

**Figure 1.** Approval rating of the National Administration vs. approval rating of the President



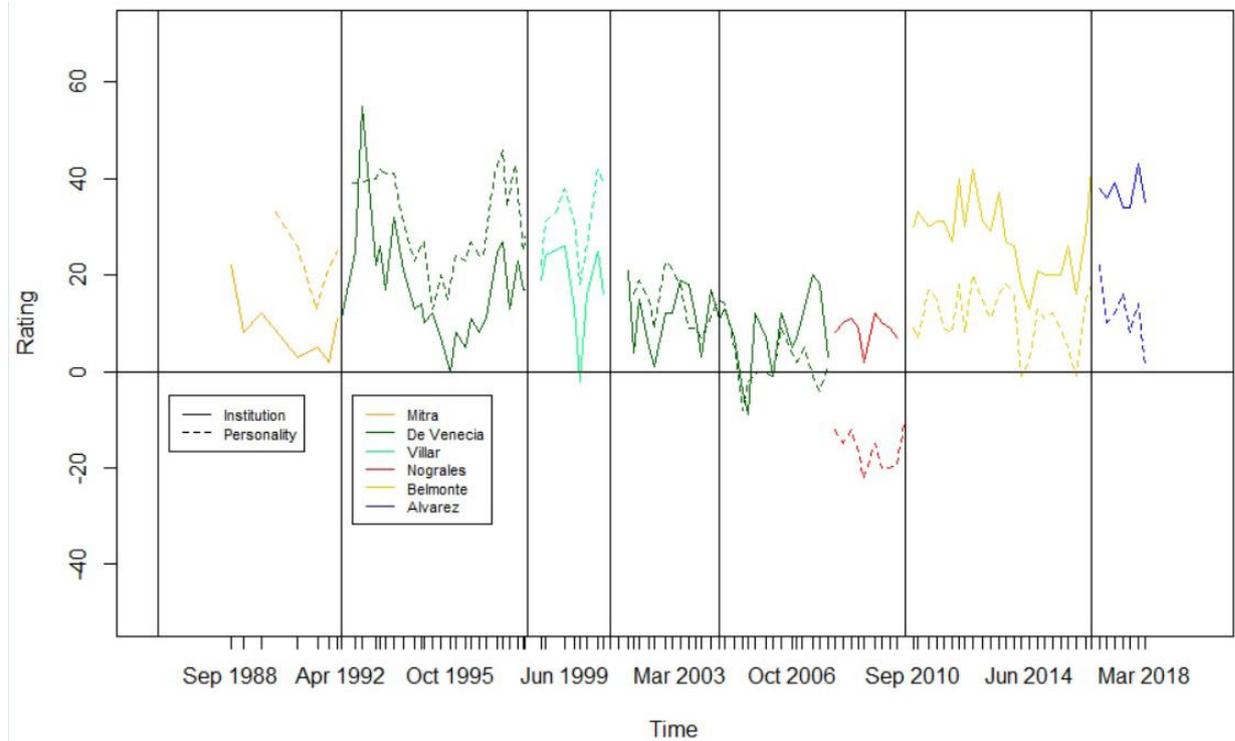
Source: Social Weather Stations

**Figure 2.** Approval rating of the Senate vs. approval rating of the Senate President



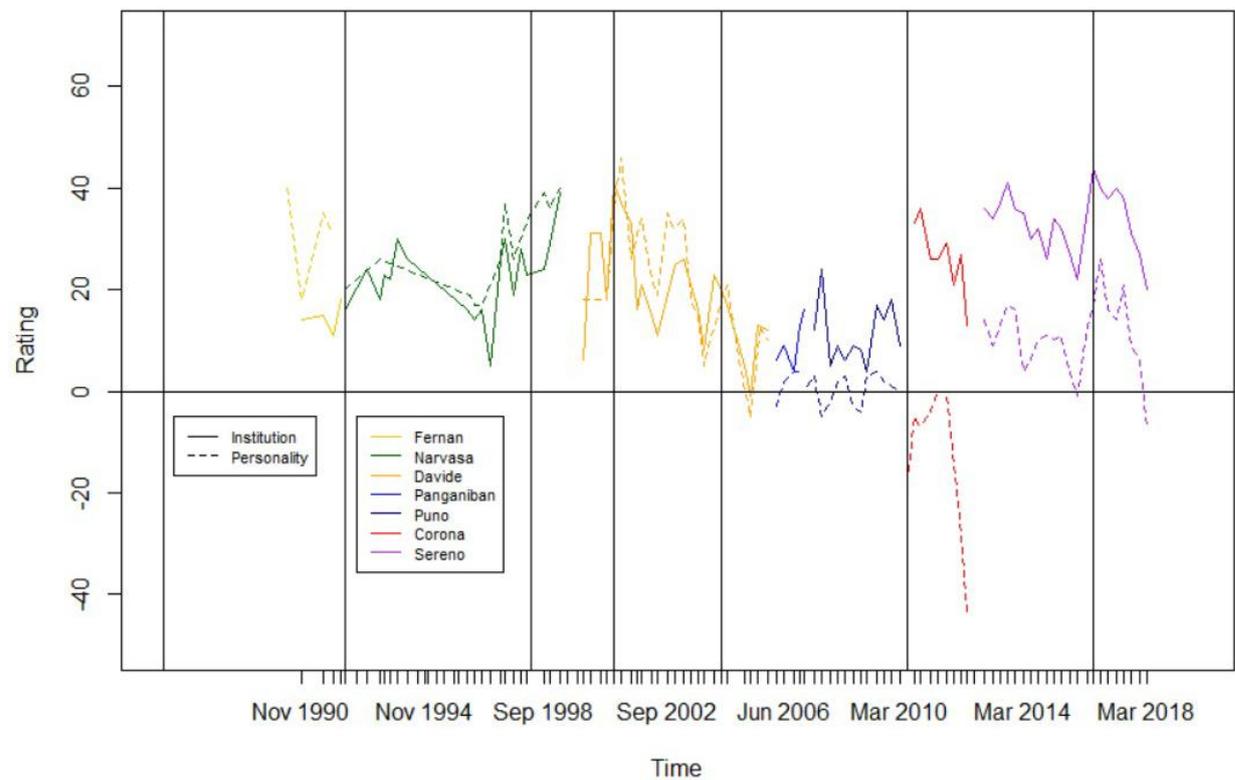
Source: Social Weather Stations

**Figure 3.** Approval rating of the House of Representatives vs. approval rating of the Speaker of the House



Source: Social Weather Stations

**Figure 4.** Approval rating of the Supreme Court vs. approval rating of the Chief Justice



Source: Social Weather Stations

Overall, Filipinos tend to be net satisfied with all four institutions with the National Administration from 2004 to 2010 being the most notable exception. In terms of personalities, only the President and the Speaker of the House of Representatives had their net approval ratings dip below zero during the same period.

The approval ratings of the National Administration, alongside the President, and the House of Representatives, alongside the Speaker of the House, seem to rise and fall at similar points in time, which reflects the traditional wisdom that the House of Representatives in the Philippines rarely opposes the will of the President. The approval ratings of the Senate, alongside the Senate President, by contrast, tend to go in a different direction from those of the approval rating of the National Administration and the President, particularly during the latter half of the Arroyo administration and the early half of the Aquino administration. Interestingly, approval ratings of the Senate and the Senate President tend to be higher than those of the House of Representatives and the Speaker of the House, perhaps due to the fact that the former is nationally elected.

Approval ratings of the Supreme Court and the Chief Justice also track closely with those of the National Administration and the President, except during the impeachment cases of former Chief Justices Renato Corona and Maria Lourdes Sereno. Further, approval ratings for both the personality and the institution across the four constitutional bodies seem to spike after a presidential election. These points may indicate that many Filipinos think of government as a single entity rather than as a collection of different branches, though as mentioned, many notable exceptions exist.

Approval for the institution and approval for the personality are usually not equal, though increases in one tend to be accompanied by increases in the other. For the most part, approval for the personality tends to be higher than the approval for the institution. However, this trend changes for the National Administration, the House of Representatives, and the Supreme Court at around 2004. This change coincides with the 'Hello Garci' scandal, wherein a phone conversation between former President Gloria Macapagal-Arroyo and Commission on Elections commissioner Virgilio Garcilano connected to allegations of electoral fraud was leaked to the public. It also makes sense that the House of Representatives follows this pattern as satisfaction ratings for the House and the Speaker have been previously linked to approval with the President. In the case of the Supreme Court, the institutional rating overtaking the personality rating coincided with the end of the term of Chief Justice Hilario Davide and the start of the term of Chief Justice Artemio Panganiban. Interestingly, approval for the institution was not affected by the change of leadership. Approval ratings of the Senate President remained higher than that of the Senate until early 2009, when Senator Juan Ponce Enrile replaced then Senate President Manuel Villar after the latter resigned following the C-5 Road Extension controversy. Again, approval for the institution does not seem to have been affected by the change of leadership.

Since this time, approval of institutions has remained consistently higher than that of personalities, except for the National Administration, which more or less overlaps with approval ratings of the President. The small gap between approval ratings of the institution and the personality for the National Administration and President, respectively, may be because it is the only one of the four constitutional bodies surveyed that is not a collegial body. While this can be seen as evidence of the institutionalization of these bodies, it should be noted that these patterns seem to have emerged more due to crises of legitimacy pertaining to particular personalities (e.g. the 'Hello Garci' scandal, the change in the leadership of the Supreme Court, and the C5 Road Extension controversy), rather than the deepening of institutions. Nonetheless, it is apparent from the data that Filipinos do see institutions as distinct from their personal faces.

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