

An Overview of the Philippine Political System under the 1987 Constitution

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要 旨

国家及び統制の原理(理念、原則)、構成、機能、役割及び実務は、政治システムを定めた法規範の内容によって決定される。そして、その法規範の用語は、特定の国家のイメージと特徴を表すものである。

本稿においては、1987 年憲法下におけるフィリピンの共和主義、民主主義といった統制原理及び大統領制度を採用した統制システムを、その成立過程における思想家や哲学者及び政治家の思想を含めて、紹介する。

Keywords: Overview Philippines Political System 1987 Constitution

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I. Introduction

Political system basically delineates the structure of government, its fundamental principles and norms and how it carries out its policies, rules and procedures. Each state has unique traits in its political system depending on what the constitution and the laws provide or what the state recognizes. It varies according to the form of government that also indicates how the government operates and its reflection to society.

The Philippines has its own political system, which derived from the various sources that identifies its roles and functions in the general public.

The main purpose of this research is to provide the readers of the overview of the Philippine political system under *1987 Philippine Constitution* and to inform them of the existing political system that influences the public, including other laws, theories and concepts that would give assistance for explanation. Thus, limits the discussion based on the aforementioned references.

This paper also discusses briefly, the background to the Philippine political system and other details pertinent to it for readers to understand clearly the rationale of such a political system. Moreover, it also encompasses the presidential system of government which is opposite of the other states scheme with the notion of democracy and sovereignty. Hence, these are the various aspects to be conferred later.

II. Discussion

A. General Profile of the Republic of the Philippines

The *Philippines national name* is “*Republika ng Pilipinas*”(Republic of the Philippines). Its area is *300,000 sq. km./115,830 sq. miles*. The *capital* and *the chief port* is *Manila* in *Luzon*. The *major town/ cities* are *Quezon City in Luzon, Davao, Caloocan, Cebu and Zamboanga*. The *major ports* are *Cebu, Davao* in Mindanao, *Iloilo* and *Zamboanga*, also in Mindanao. It comprises *7,100 islands* at *low tide* and *7,000* at *high tide*, with *volcanic mountain ranges* traversing the main north-south chain, of which *50%* is *still forested*. The *three main islands* are *Luzon, Visayas* and *Mindanao*. The *major trading partners* are *Japan, USA, Singapore, Taiwan, South Korea, and Hongkong* (*Hutchinson Family Encyclopedia, 2000*).

As of *May 2000*, the *total population* is *76.5 million* (*National Statistics Office, Philippines, 2001*). It is estimated that there are *111 linguistic groups or dialects* spoken in the country. The *languages* used are *Filipino*, officially based on Tagalog and *English*. Historically, Philippines were a colony of the United States for more than 40 years and Spain for more than 300 years. For this reason, both *Filipino* and *English* are being used for official communication and instruction and some Filipino words are derived from Spanish. The *total literacy rate* is about *94.6%* (*Philippine Embassy, Australia, The Philippines, 2000; Philippine Star, Special Article, The Philippine Response, 2001*).

B. Historical Background of the Philippine Constitution

Emilio Jacinto prepared a *Cartilla* and the *Sangguniang-Hukuman, the Charter Code of Laws and Morals of Katipunan* in 1896. *Isabelo Artacho* and *Felix Ferer* prepared a *provisional constitution* for the *Philippine Republic*, which was approved in *Biak-na-Bato, San Miguel, Bulacan* on *November 1, 1897*. It was *April 1898* when a *constitution for the island of Luzon*, which was prepared, was promulgated by *General Francisco Macabulos*. A *provisional constitution* for the *Philippine Republic* was, upon the orders of *General Emilio Aguinaldo*, prepared in *Hongkong* by *Mariano Ponce* in 1898. A *constitution program* for the *Philippine Republic* prepared by *Apolinario Mabini* and submitted to the *revolutionary government* in *Cavite* on *June 6, 1898*. *Felipe G. Calderon* was reported to be the *author of the Malolos Constitution of*

1899 and approved by *the Malolos Congress* at *Barasoain Church* in *Malolos, Bulacan*. The *1935 Constitutional Convention* composed of delegates elected by the Filipino people with *Claro M. Recto* as its President and ratified by the people on *May 14, 1935*. The *1973 Constitution* was prepared by *Constitutional Convention* composed of delegates elected by the Filipino people with *Pres. Diosdado Macapagal* as its president and proclaimed on *January 17, 1973*. The *Freedom Constitution* promulgated by *President Corazon C. Aquino* on *March 25, 1986* following the installation of a new government through direct exercise of power of the Filipino people assisted by units of the New Armed Forces of the Philippines. The *1986 Philippine Constitution* prepared by a *Constitutional Commission* composed of 48 members appointed by *President Corazon C. Aquino* with *Justice Cecilia M. Palma* as its president and ratified by the people on *February 2, 1987*, and it became *the 1987 Philippine Constitution (Paulino, 1987 Philippine Constitution Annotated, 1990)*.

C. Philippine Perspective of the Political System and on the Concept of Democratic and Republican Principles and Presidential System

The *Philippine Political System* as quoted by *Atty. Luie Tito F. Guia (2000)* is aptly described in summary by a principle enumerated in *the 1987 Philippine Constitution. Article 2 Section 1* explicitly states that “the Philippines is a democratic and republican state. Sovereignty resides in the people and all government authority emanates from them.”

Atty. Benjamin Paulino (1990) commented in the article mentioned above. As a democratic state, sovereignty resides in and the Filipino people exercise political power. Being a democratic state, the people manifested their dislike for an authoritarian rule. Moreover, as a republican state, the people affirmed that their government would be a government of the people, by the people and for the people. As manifestations of democratic and republican state, the existence of bill of rights, the principle that ours is a government of laws and not of men, rule of majority, the state cannot be sued without its consent, election through popular will, separation of powers and the system of checks and balances, the principle that an office is a public trust, the legislative cannot pass irreparable laws and the rule against undue delegation of legislative power are highly regarded.

The idea that the government is directed to establish the various political values such as truth, justice, freedom, love and equality has been emphasized in the *Preamble of the Constitution*.

Prof. Ayson and Prof. Reyes (1993) also cited that one of the basic principles embodied in a democratic constitution is the supremacy of the rule of law. Law is the very manifestation of the nation-states internal sovereignty.

Many *political theorists* pointed out that “law is the hallmark or the very essence of the nation-state. It is safe to assume therefore that it is the law that gives life and force to a nation-state that accords it with political authority and lays down limitations to the government in the exercise of its powers and functions (*Rodee, 1983*).

The *sovereignty* referred to earlier, as explained by *Atty. Paulino*, is the supreme power to govern and of the state to command and enforce obedience from all people within its territorial jurisdiction. In the constitution, the Filipino declared that sovereignty resides in them and all government authority emanates from the people. Thus, all officers of the government are servants of the people and not their masters. They shall be, at all times accountable to the people. *Article 11 Section 1 of the 1987 Constitution* asserts that “Public office is a public trust.” Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives. It means he added, that public office is public trust. It is not a property. Public officers and employees, from the highest to the lowest are public servants. They are enjoined to serve the people.

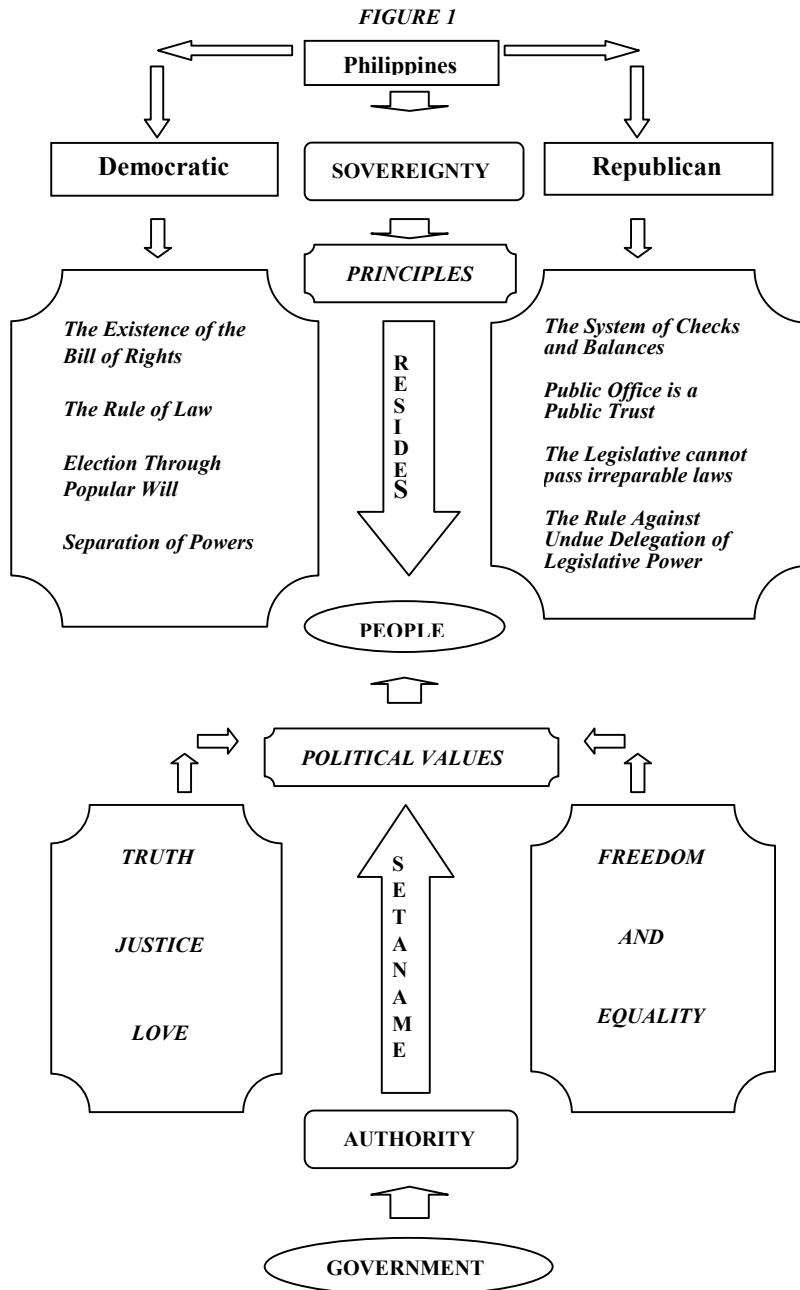
According to *Dr. Avelino Tendaro (1994)*, those who are employed in the government are to conduct themselves in accordance with certain normative prescriptions and ethical standards. In a democratic polity management of public affairs should be in accordance with the provisions of law. It is these rules of law, which define the area of administrative performance. These rules are value norms, which government employees must live up to. In support to this proviso, in *February 20, 1989* the Congress passed *Republic Act 6713 establishing a Code of Conduct and Ethical Standards for Public Officials and Employees to Uphold the Time Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties*

for Violation Thereof. This law supplements the Anti-Graft Law, The Ombudsman Law and the Law on Plunder.

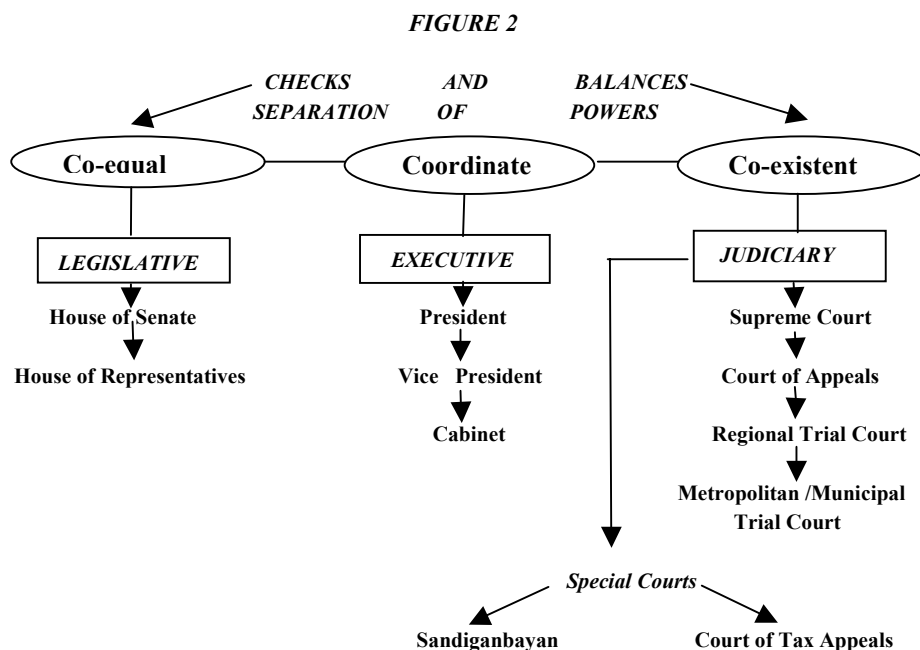
Atty. Guia further said that the ***sovereignty of the Filipino people*** is exercised in elections held almost every year where the people directly choose their national and local leaders. The people directly elect all elective officials from the President down to the last member of barangay sanggunians (village councils). Regular elections are held every three years but in between of these schedules are barangay elections, Sangguniang Kabataan (Youth Council) elections, and the regional elections in the Autonomous Region in Muslim Mindanao (ARMM).

According to her, “Philippine elections have become so frequent that it has become the favorite pastime of Filipinos. Election campaigns are nothing short of a ***“fiesta”***. At the same time, it is not uncommon to hear instances of a ***“wild wild west”*** atmosphere where the election is fought with guns rather than with votes. Because of the unique and interesting nature of Philippine elections and because of the enthusiasm put into it by Filipinos, the Philippines has often times been called “noisiest democracy in Asia.”

In addition to this, ***Atty. Guia*** also supposed that Filipinos adopted the Philippine Constitution in 1987 as their social contract with the state and as sovereigns, the Filipino crafted a Constitution that defines the basic structures of government. It created governmental organs to which the powers of government are systematically allocated. With the principle of checks and balances in mind, the Constitution limits the powers and functions of each governmental organ to ensure that abuse is minimized if not completely prevented. But conspicuous in the Philippine Constitution is the constant reference to the power of the people to directly elect their President, Vice President, and the members of both Houses of Congress and the local executives. An added and interesting feature in the Philippine Constitution is the power of the people to directly enact and propose laws, both national and local level, through a ***system of initiative and referendum***. This power exists side by side with the legislative power granted to Congress. This vividly demonstrates the extent of ***“democracy”*** in the Philippines. But more importantly, this shows the extent by which Filipinos put a premium on their right to directly participate in the affairs of the state. (See figure 1)



As authorized by the **1987 Constitution**, the Government of the Republic of the Philippines operates under a **presidential system**. In the preceding discussions, the principles of a democratic and republican state have been highlighted, such as the separation of powers and checks and balances between the three branches of government. Theoretically, in the presidential system, a single president elected by a popular vote exercises the executive power. He holds office for a specific period of time as fixed by the Constitution of the state (*Hedrick Smith, 1988*). *Justice Jose Laurel (Political Law, Isagani Cruz, 1992)* declared that the three branches of government are co-equal, coordinate and co-existent with each other. (See figure 2)



The Philippine Constitution allots governmental powers to these three branches of government namely: **Executive, Legislative and Judiciary**.

Executive

Article 7 Section 1 states that “the **executive power** shall be vested in the President of the Republic of the Philippines. The executive power as been defined by **Black**, is the power to administer the laws , i.e. carrying them into practical operation and enforcing their due observance.

The *Executive Branch* is composed of the *President, Vice President, Department Secretaries* and *other offices of the Executive Department*. Among the vital cabinet departments are the *Department of Foreign Affairs, Defense, Interior and Local Government, Finance, Justice, Trade and Industry, Education, Culture and Sports, Labor and Employment, Agriculture, Agrarian Reform, Environment and Natural Resources, Tourism, Health, Public Works and Highways, Transportation and Communication, Energy, Social Welfare and Development*. Under these departments are bureaus and offices whose officers are appointed by and under the authority of the President.

Article 7 Section 2 specifically revealed that the President is elected at large, has a fixed term of office, and his or her qualifications are the following: He or she must be a natural born citizen, a registered voter, able to read and write, at least forty years of age on the day of the election and a resident in the Philippines for at least ten years immediately preceding such election.

The next section under the same article (*Article 7 Section 3 of the 1987 Constitution*) deals with the Vice Presidency as he or she has the same qualifications and term of office and be elected with the same manner as the President. He or she may be removed from office in the same manner as the President. The Vice President may be appointed as Member of the Cabinet. Such appointment requires no confirmation.

Article 7 Section 4 paragraphs 1 and 2 states that the President and the Vice President shall be elected by direct vote of the people for a term of six years which shall begin on the thirtieth of June following the day of the election and shall end at noon of the same date six years thereafter. The President shall not be eligible for any reelection. No person has succeeded as President and had served as such for more than four years shall be qualified for election to the same office at any time. No Vice President shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as interruption in the continuity of the service for the full term for which he was elected.

Also, under *Article 7*, the President shall have the control of all executive department, bureaus and offices and he shall ensure that the law be faithfully executed. The Constitution provides him presidential powers basically with the confirmation of the Congress and in appointments is the Commission on Appointments.

These powers include the following: *military, control, appointing, budgetary, informing, pardoning, borrowing and diplomatic powers (Article 7, 1987 Philippine Constitution).*

Article 11 Section 2 endows with the removal from office of the President, Vice President and other positions, which are significant in public administration. It avows that the *President, the Vice President, the Members of the Supreme Court, the Members of the Constitutional Commissions*, and the *Ombudsman* may be removed from office, on *impeachment* for, and *the conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust*. All other public officers and employees may be removed from office as provided by law, but not by impeachment. *Impeachment* as defined in *Black Law Dictionary, Ballentine's Law Dictionary* as it is in the nature of a criminal prosecution before quasi-political court, instituted by a written accusation called "*Articles of Impeachment*", on a charge of a wrongdoing or the commission of a crime or some misconduct or neglect. *Prof. V. Sinco of Philippine Political Law* explained that the purpose of impeachment is to protect the people from official delinquencies or malfeasances. It is primarily intended to protect the people as a body politic. An example of this situation was the case entitled *Joseph Ejercito Estrada, petitioner vs. Gloria Macapagal Arroyo, Aniano Disierto, in his capacity as Ombudsman, Ramon Gonzales, Volunteers Against Crime and Corruption, Graft Free Philippines Foundation, Inc., Leonardo de Vera, Dennis Funa, Romeo Capulong, G.R. Nos. 146710-15, March 2, 2001*. In this case, *October 4, 2000*, the longtime friend of the *former President Joseph Ejection Estrada, Chavit Singsong, Governor of Ilocos Sur, Northern Philippines*, went on air and accused the petitioner of receiving millions of pesos from *jueteng lords* (gambling lords) (*Philippine Daily Inquirer, October 5, 2000*). This exposition without more ado stirred up reactions of fury. Consequently, the *Senate Blue Ribbon Committee* headed by *Senator Aquilino Pimentel and the Committee on Justice* then headed by *Senator Cayetano* for joint, investigation. The *Committee on Public Order and Security of the House of Representatives* headed by *Representative Roilo Golez* decided to investigate the case exposed by *Governor Chavit Singsong* supported by other Representatives to impeach the *President, Joseph Ejercito Estrada (Philippine Daily Inquirer, October 6, 2000)*. It was *November 13, 2000* when *House Speaker Villar* transmitted the *Articles of Impeachment*, signed by *115 representatives, or more than 1/3 of all members of the House of Representatives* to the Senate (*The complaint for impeachment was based on the following grounds: bribery, graft and corruption, betrayal of public trust, and culpable violation of the Constitution*). During the impeachment trial which began *December 7, 2000* several

distinguished personalities testified against the former President with numerous evidence that would impeach him. However, on **January 17**, the senator-judges by a vote of **11-10**, the majority of which are supporters of the President, ruled against the opening of the second envelope which allegedly contained evidence presenting that the petitioner, President Estrada held **3.3 billion pesos** in a secret bank account under the name of **Jose Velarde**. Thus, the public and private prosecutors walked out in the protest of ruling, followed by the resignation of the Senate President. In the streets of the metropolis, thousands assembled at the Edsa Shrine and speeches were delivered against the petitioner and 11 senators. On **January 18**, people holding lighted candles to symbolize Filipino solidarity demanded for the petitioner's resignation. Students and teachers walked out of their classes in Metro Manila to show their support, which continued until the next day (*Philippine Star, January 18, 19, 2000*). On **January 20**, there was a peaceful and orderly transfer of power in Malacanang, the official residence of the President (*Philippine Daily Inquirer, February 5, 2001*).

At about **12:00 noon**, **Chief Justice Hilario Davide** administered the oath to **Arroyo**, the respondent, as **President of the Republic of the Philippines** (*Philippine Star, January 21, 2001*). It was **2:30** in the afternoon when the petitioner and his family left Malacanang (*Philippine Daily Inquirer, February 6, 2001*). As stated in the facts of the case that he issued the following press statement: (*Annex A, Department of Justice-Office of the Secretary-General, Joint Comment, Rollo, p.34*).

"20 January 2001

"STATEMENT FROM PRESIDENT JOSEPH EJERCITO ESTRADA TO CHIEF JUSTICE HILARIO DAVIDE

"At twelve o'clock noon today, Vice President Gloria Macapagal-Arroyo took her oath as President of the Republic of the Philippines. While along with many other legal minds of our country, I have strong and serious doubts about the legality and constitutionality of her proclamation as President, I do not wish to be a factor that will prevent the restoration of unity and order in our civil society.

"It is for this reason that I now leave Malacanang Palace, the seat of Presidency of this country, for the sake of peace and order to begin the healing process of our nation, I leave the Palace of our people with

gratitude for the opportunities given to me for service to our people. I will not shrink from any future challenges that may come ahead in the same service of our country.

“I call on all my supporters and followers to join me in the promotion of a constructive national spirit of reconciliation and solidarity.

“May the Almighty bless our country and beloved people.

“MABUHAY!

(Sgd.) JOSEPH EJERCITO ESTRADA”

On the same day, also appears the following letter:

“Sir:

“By virtue of the provisions of Section 11, Article 7 of the Constitution, I am hereby transmitting this declaration that I am unable to exercise the powers and duties of my office. By operation of law and the Constitution, the Vice President shall be Acting President.

On *January 22, Vice President Gloria Macapagal-Arroyo* took her oath and afterward immediately discharged her powers, duties and functions as *President of the Republic of the Philippines (Philippine Star, January 21,2001).*

This is one of the historical events in the Philippines that imply “*democracy*”. The case of *plunder, graft and corruption*, etc. against the former President is ongoing and started the trial in *Sandiganbayan*.

In the legal opinion article of *Atty. Senen de Santos*, it was written that eight criminal cases have been filed with the *Sandiganbayan* and do completely as *Criminal Case Nos. 26558,26559 (plunder), 26560,26561(for*

violation of the Anti-Graft and Corrupt Practices Act (AGCPA, RA No. 3019 as amended, 26562 (also a violation AGCPA, 26563 (for violation of the RA No. 6713 or the Code of Conduct and Ethical standards for Public Officials, 26564 (for violation of perjury, and 26565 (for violation of CA Act No. 143, as amended, or the illegal use of an alias. With these, 2 cases now ordered withdrawn, Criminal Cases No. 26560 and 26562, four remain pending resolution, Criminal Cases No. 26559, 26563, 26564 and 26565 and Criminal Case No. 26561 was denied (Philippine Daily Inquirer 2001).

Legislative

In *Article 6 Section 1*, “the *legislative power* is exercised by the Congress of the Philippines which shall consist of the Senate and a House of Representatives, except to the extent reserved to the people by provision of initiative and referendum. *Columbia Encyclopedia(2000)*, defines *initiative* as a referral of proposed laws or constitutional amendments. *Referendum*, on the other hand, is the origin of law or constitutional amendment. *UPL Constitution Project, Reserved Powers of 1986* defines the former as the process by which any laws at polls called for the purpose independently of the regularly constituted local government. The latter refers to the process by which any law or ordinance passed by a local executive body is submitted for approval or disapproval by the people in the local government unit.

The *legislative power* mentioned earlier has been emphatically clarified in the case of *Government of the Philippines vs. Springer (50 Phil. 259)*, it is the power to make laws and alter and repeal them.

The legislative branch, as indicated in the previous provision, is divided into two chambers: the *Senate* and *House of Representatives*.

A. The Senate

Article 6 Section 2 and 3 states that “the Senate shall be composed of 24 Senators who shall be elected at large by the qualified voters of the Philippines, as may be provided by the law. No person shall be a Senator unless he or she is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-

five years of age, able to read and write, a registered voter and a resident of the Republic of the Philippines for not less than two years immediately preceding the day of the election.

The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon of the thirtieth day of June next following their election.”

No Senator shall serve for more than two consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his or her service for the full term for which he or she was elected (*Article 6 Section 4*).

B. The House of Representatives

Article 6 Section 5 provides that (1) “the House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through party-list system registered national, regional, and sectoral parties or organizations.”

(2) The party-list representatives shall constitute twenty percent of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-lists representatives shall be filled, provided by law, by selection or election from labor, peasant, urban poor, indigenous cultural minorities, women, youth, and such other sectors as may be provided by law, except the religious sector.

(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

(4) Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section.

Section 6 of the same article provides that “no person shall be a Member of the House of Representatives unless he or she is a natural- born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.”

Section 7, on the other hand, provides for the term of office. It states “the Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon of the thirtieth day of June next following their election.”

No Member of the House of Representatives shall serve not more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his or her service for the full term for which he or she was elected.

Judiciary

In Article 8 Section 1, “*the judicial power* shall be vested in one Supreme Court and in such lower courts as may be provided by law (See figure 2).”

“**Judicial power**” includes the duty of courts of justice to settle actual controversies involving rights, which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. The definition given in *Black’s Law Dictionary*, “**judicial power**” is the power to apply the laws to contests or disputes concerning legally recognized rights or duties between the state and private persons, or between individual litigants which includes the power to ascertain what are the valid and binding laws of the state, and to interpret and construe them, and to render authoritative judgments.

Article 8 Section 4 states that (1) the Supreme Court shall be composed of a Chief Justice and fourteen Associate Justices. It may sit en banc or, in its discretion, in divisions of three, five, or seven Members. Any vacancy shall be filled within 90 days from the concurrence thereof.

(2) All cases involving the constitutionality of the treaty, international or executive agreement, or law, which shall be heard by the Supreme Court *en banc*, and all other cases which under the Rules of Court are required to be heard *en banc*, including those involving the constitutionality, application, or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

(3) Cases or matters heard by a division shall be decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided *en banc*; Provided, that no doctrine or principle laid down by the court in a decision rendered *en banc* or in division may be modified or reversed except by the court sitting *en banc*.

Article 8 Sections 5 provides the powers of the Supreme Court and these are the following:

(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.

(2) Review, revise, modify, or affirm on appeal on certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order instruction, ordinance, or regulation is in question.

(b) All cases involving the legality of any tax impost, assessment, or toll, or any penalty imposed related thereto.

(c) All criminal cases in which the jurisdiction of any lower court is in issue.

(d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.

(e) All cases in which only an error or question of law is involved.

(3) Assign temporarily judges of lower courts to other stations as public interest may require. Such temporary assignment shall not exceed six months without the consent of the judge concerned.

(4) Order a change of venue or place of trial to avoid a miscarriage of justice.

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and the legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts, and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

(6) Appoint all officials and employees of the judiciary in accordance with the Civil Service Law.

It is stated in *Article 8 Section 6* that “the Supreme Court shall have the administrative supervision over all courts and the personnel thereof”.

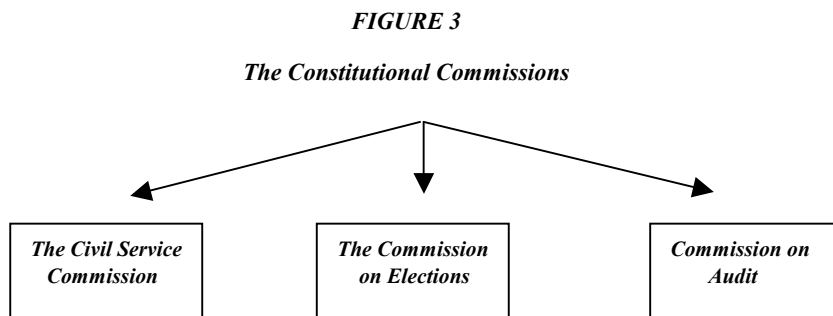
Article 8 Section 7 states that “(1) No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age and, must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.”

(2) The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar.

(3) A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence.

Article 8 section 9 states that “ the Member of the Supreme Court and judges of lower courts shall be appointed by the President from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation.”

For the lower courts, the President shall issue the appointments within ninety days from the submission of the list.



The Constitutional Commissions

Aside from the aforementioned main branches of government, there are **three Constitutional Commissions** created by the **1987 Philippine Constitution**. These are **Civil Service Commission, Commission on Elections and Commission on Audit**, which are independent bodies. (**Article 9 Sections 1**).

1. The Civil Service Commissions

Article 9 B Section 1 paragraph 1 states that the “Civil Service Commission shall be administered by the Civil Service Commission composed of a Chairman and two Commissioners who shall be a natural citizens of the Philippines and, at the time of the appointment, at least thirty-five years of age, with proven capacity for public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment.”

(2) The Chairman and the Commissioner shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, the Chairman shall hold office for seven years, a Commissioner for five years, and another Commissioner for three years, without reappointment. Appointment to any vacancy shall be only for the unexpired term of the predecessor. In no case shall any member be appointed or designated in a temporary or acting capacity.”

Article 9 B Section 2 paragraph 1 states that “the Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

“The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability” (*Article 9 Section 3*).

2. The Commissions on Elections

Article 9 C Section 1 paragraph 1 and 2 states that “there shall be a Commission on Elections composed of a Chairman and six Commissioners who shall be natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a college degree, and must not have been candidates for any elective position in the immediately preceding elections. However, a majority thereof, including the Chairman, shall be Members of the Philippine Bar who have been engaged in the practice of law for at least ten years. The Chairman and the Commissioner shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, three Members shall hold office for seven years, two Members for five years, and the last Members for three years, without reappointment. Appointment to a vacancy shall be only for the unexpired term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

The Commission on Elections shall exercise the following powers and functions as provided in **Article 9 C Section 2 paragraphs 1 to 9**. The Commission shall

- (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
- (2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all regional, provincial, and city officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction. Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory and not appealable.
- (3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.
- (4) Deputize, with the concurrence of the President, law enforcement and agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful and credible elections.
- (5) Register, after sufficient publication, political parties, organizations, coalitions which, in addition to other requirements, must present their platform or program of government; accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and when

accepted, shall be an additional ground for cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

- (6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.
- (7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.
- (8) Recommend to the President the removal of any officer or employee it has deputized or the imposition of any other disciplinary action for violation or disregard of, or disobedience to its directive, orders, or decision
- (9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

3. Commissions on Audit

There shall be a Commission on Audit as stated in *Article 9 D Section 1 paragraph 1*, which is composed of a Chairman and two Commissioners, who shall be a natural-born citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, certified public accountants with not less than ten years of auditing experience, or members of the Philippine Bar who have been engaged in the practice of law for at least ten years, and must not have been candidates for any elective position in the election immediately preceding their appointment. At no time shall all Members of the Commission belong to the same profession.

The Chairman and the Commissioner as provided by *Article 9 Section 1 paragraph 2*, shall be appointed by the President with the consent of the Commission on Appointments for a term of seven years without reappointment. Of those first appointed, the Chairman shall hold office for seven years, one Commissioner

for five years, and the other Commissioner for three years, without reappointment. Appointment to any vacancy shall be only for unexpired portion of the term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

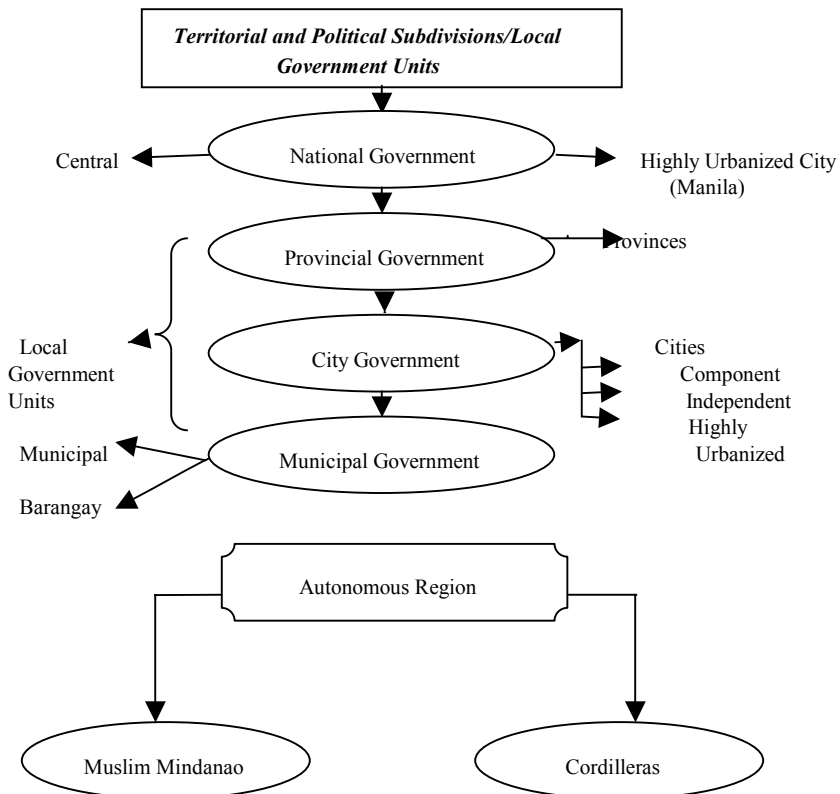
Article 9 Section 2 paragraphs 1 and 2 states that “(1) the Commission on Audit shall have the power, authority and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporation with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the government, which are required by law of granting institution to submit such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt measures, including temporary or special pre-audit, as a necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto. (2) The Commission shall have exclusive authority, subject to the limitations in this Article, to define the scope of its audit and examination, establish the techniques and methods required therefore, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, inexpensive, extravagant, or unconscionable expenditures, or uses of government funds and properties. (See figure 3)

The Local Governments

As a concept, local government has been specified by **Hector de Leon of the 1987 Philippine Constitution (1992)**, as a political subdivision of a nation or state which is constituted by law and has substantial control of local affairs, with officials elected or otherwise locally selected. **Article 10 Section 1 of the 1987 Constitution** states that “ the territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as

hereinafter provided.” Based on the aforetasted provision the units of local government are the following: provincial government, city government and municipal government. (See figure 4).

FIGURE 4



Manuel S. Tabunda and Mario Galang (1991), explained that the *province* contains a group of component cities and municipalities, headed by a Provincial Governor followed by a Vice Governor with the members of Sangguniang Panlalawigan, the Provincial Board, which is the legislative body of the province, enacts ordinances and adopts resolutions for general welfare of the province. It has a population of not less than 250,000 inhabitants and a territory of at least 2,000 km. The *city* consists of more urbanized and developed, which delivers the basic services and serve and govern effectively the populace. Under Local Government Code of 1991, cities may be classified to the following categories such as component cities, independent cities and highly urbanized cities. The *component cities* are subject to the general supervision by the province; *independent cities* are under the direct supervision of the President; and *highly urbanized cities* are

those, which are classified under the existing laws. The ***Sangguniang Panlungsod*** is the legislative body of the city government and enacts ordinances and resolutions for the general welfare of the city and inhabitants. Furthermore, the ***municipality*** composed of barangays with the same purpose as the province and the city. The ***Sangguniang Bayan*** has the same powers as the ***Sangguniang Panlalawigan*** and ***Sangguniang Panlungsod***, enacts ordinances and resolutions for the general welfare of the people in the municipality. The last is ***barangay***, principally its functions are to plan and implement unit of government programs, projects, and activities in the community.

Under the ***Local Government Code of 1991 of the Republic of the Philippines***, the National Government transfers powers, functions and responsibilities to local government units. This ***devolution process*** began since 1992. Also, the concepts of ***local autonomy***, ***devolution*** and ***decentralization*** have been accentuated. ***Article 10 Section 2*** states that “the territorial and political subdivisions shall enjoy local autonomy.” ***Prof. Hector de Leon, Voice Primer of the 1987 Philippine Constitution (1992)***, defined ***local autonomy*** as the exercise of certain basic powers, such as police power, power of eminent domain, and the power of taxation by local government units so as to serve the interests and promote the general well being of their inhabitants. ***Decentralization***, however, as defined also by ***Prof. De Leon*** as the process of transferring basic powers from the national to locals to allow maximum participation of the citizens in governmental and community activities.

Autonomous Regions

Article 10 Sections 15 to 17 provides that “there shall be autonomous regions in Muslim Mindanao and in Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines. The President shall exercise general supervision over autonomous regions to ensure that the laws are faithfully executed. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested the National Government.”

As written in *Philippine Political System of Atty. Guia (2000)*, the *Autonomous Region of Muslim Mindanao* comprises the southern province of Lanao del Sur, Maguinadanao, Sulu, and Tawi-Tawi, has its own regional government. A Regional Governor followed by a Vice-Governor and by Regional Assembly persons elected at large heads it. The fixed term of office of the above-mentioned officials is three years are not held simultaneously with the regular elections of national officials and local officials.

D. Realities in Philippine Politics

The previous discussions dealt with the formal structure of the Philippine Political System, however, there are various groups that have influenced to Philippine politics.

These groups are the *political parties*, the *non-governmental organizations*, *people's organization*, *religious groups*, *socialist groups* such as *Communist Party of the Philippines*, *the New People's Army* and *the National Democratic Front*, and other secessionist groups such as *Muslim fundamentalists: Abusayaf, Moro Islamic Liberation Front (MILF), Moro National liberation Front (MNLF) (Guia, 2001)*.

Under the present constitution (*1987 Philippine Constitution*), the so-called “*multi-party system*” has been encouraged and also been the medium to political power. They endow with the needed organization and sustain the machinery necessary to assure success in elections. There are *80 political parties* registered in the *Commission on Elections as of February 16, 2001*. The *dominant majority party* is *LAKAS-NUCD-UDMP* and the *Dominant Minority Party* is the *National Peoples' Coalition Party (NPC)* as certified by the *COMELEC, Commission on Elections (Halalan 2001)*.

Atty. Guia argued that the objective of this multi-party system is to make available to as many people or groups the opportunity to serve in the government, or at least as many ideas represented in policy and decision-making. One such mechanism created encourage multi-party politics is the system of representation. The aim is to encourage small parties to organize and strengthen themselves by allowing them representation in Congress not through traditional “majority rule” election of individuals but through a method whereby representation is based on the proportion of votes obtained by political parties nationwide. Parties promoting

sectoral interests are also being encouraged to develop as also stated in *Article 6 of the 1987 Philippine Constitution*.

Likewise, the *elite* has always dominated politics in the Philippines wherein the moneyed and propertied class has been given favor and importance. However, there is the appearance of the various *non-governmental organizations* and *peoples' organizations* have lobbied in Congress concerning policy-making both in national and the local levels. The *1987 Philippine Constitution* as provided in *Article 2* has recognized these groups.

The religious groups particularly the *Roman Catholic Church*, openly express their position in some secular concerns like the issue of *Constitutional amendments, the issue of the imposition of death penalty, the Visiting Forces Agreement* with the Americans. Other denominations started to convey publicly their opinions such as *Iglesia Ni Kristo, Protestants* etc.

The *Muslim fundamentalists* such as *MILF, Abusayaf*, are the groups responsible for kidnappings in Mindanao, Southern Philippines. The *MNLF*, after *Misuari* became a *governor of Autonomous Region in Mindanao*, the time when Ramos administration gave autonomy in 1996 have joined in the society and again revolted against the present government, Arroyo administration as they attacked the army outpost in Jolo, Sulu in Mindanao (*Manila Bulletin November 2001*).

The Philippine government has offered several peace talks and agreements with these *Muslim groups* from the time of *President Aquino* but still it is one of the most serious problems in the Philippines. Besides, the underground sector of society, the *Communist Party of the Philippines*, the *New People's Army* and the *National Democratic Front*, waged socialist revolution in the government.

It is said that the single most dominating influence in Philippine politics is the freedom of the Philippine media. Arguably, the Philippine media is among the most liberated in Asia wherein everything can be said and the government actions are scrutinized. Large- scale corruptions and scandals are being exposed. The media in the Philippines are truly indeed fourth state (*Philippine Political System, 2000*).

III. Summary

The *Philippines* has been depicted in political category based on the discussions of its general profile, historical background of its constitution, its perspective of the political system, the concept of democratic and republican and presidential system with the explanation also on the three branches of government: executive, legislative and judiciary; Constitutional Commissions: The Civil Service Commissions, Commission on Elections and Commission on Audit; Local Government, Autonomous Regions and Realities in Philippine Politics.

The *Philippines* is a *democratic* and a *republican state*. *Sovereignty* resides in the people and all government authority emanates from them as provided by *Article 2 Section 1* mentioned earlier. With these characteristics, the existence of the Bill of the Rights, the rule of law, election through popular will, separation of powers, the system of checks and balances, public office as a public trust, the legislative cannot pass irreparable laws, the rule against undue delegation of power, the political values such as truth, justice, freedom and love as stated in the *Preamble of the 1987 Philippine Constitution* are highly regarded. (*See figure 1*). As the *sovereignty* resides in the people, they can exercise this right through *elections*. They can directly enact and propose laws both national and local level through the *system of initiative and referendum*.

The *President* in analysis of the provisions mentioned in *Article 7* is considered the *head of state* and the *head of government* as he represents the Republic of the Philippines as a state manages the affairs of government. The *Constitution* provides him several powers such as *appointing, military, control, budgetary, borrowing, pardoning, informing and diplomatic power*, however, there are always with the confirmation of the *Congress* and the *Commission on Appointments* to make sure that the President dose not abuse these powers. The power of the President as we look at it as exclusive and presidential in character, on the other hand, in the enforcement of such powers, the other two branches of government: the legislative and judiciary confirmed and concurred to such powers to avoid imbalance and miscarriage of justice. The *President* may be removed from office through *impeachment*. (*See the case entitled Pres. Joseph Ejercito Estrada vs. Gloria Macapagal arroyo, et al, G. R. Nos. 146710-15, and March 2, 2001*). Under the *1987 Constitution* that has been discussed previously that also the *Vice President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman* may be removed from office on impeachment for,

and conviction of, ***culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust***. The President and the Vice President has the same qualifications and will serve for a fixed term of office, the President, which is only for six years, and not eligible for any reelection, the Vice President shall serve not more than two consecutive terms.

The ***three branches of government*** such as ***executive, legislative*** and ***judiciary*** are ***independent*** and ***separate*** from each other. Each has its own functions to be performed, the ***executive*** as the ***implementer***, and the ***legislative*** as the ***makers of law*** and the ***judiciary*** as the ***interpreter***. As discussed earlier, ***Justice Laurel*** declared that these ***three branches of government*** are ***co-equal, coordinate, and co-existent*** with each other. They can apply the concept of checks and balances as provided by the law.

Even so, the ***Constitutional Commissions*** which are divided into three also has its own functions and roles to play. The ***Civil Service Commissions*** is the agency tasked to administer the whole civil service, which, in turn, embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government owned and controlled corporations. The ***Commission on Elections*** is the agency responsible for the enforcement and administration all laws relative to the conduct of an election, plebiscite, initiative, recall and referendum Also conducts elections, designs the ballots, registers political parties etc. The ***Commission on Audit*** is the agency granted the power, authority and duty to examine, audit and settle all accounts pertaining to revenues, receipts of, and expenditures, uses of funds and properties, owned or helps in trust by, or pertaining to the government. The ***local government*** with the concept of devolution, decentralization and local autonomy as well as ***the autonomous regions*** has been acknowledged in Article ***10 of the 1987 Philippine Constitution***.

As the Constitution mandated freedom, every group or organization has the right to express his or her grievances, opinions and views, as long as it would not go beyond the limitations provided by the law. The various sectors and organizations, whether passive, active, underground, secessionist, or fundamentalists in society have a major influence on Philippine politics. The ***Philippine media*** is considered the fourth state as it can expose large-scale anomalies.

The summary is based primarily on the discussions presented.

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