

CONSTITUTIONAL LAW 1A*Midterms, 1S 24-25*

Consolidated codal, case law, and commentary

Codal

Commentary

Case law

PREAMBLE

We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and protect our patrimony, and secure to ourselves and our posterity the blessings of independence and democracy, under a rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.

- The preamble is not a source of rights or obligations.
- It merely sets out the origin, scope and purpose of the Constitution.
- It also aids in construing provisions.
- Its origin is us—the sovereign people, and the use of “we” shows that the Constitution is the work of the Filipino people themselves (CCC, p. 1-2).

ART. I
National Territory

The national territory comprises of the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty of jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

- The “Philippine archipelago” refers to the Treaty of Paris.
- Art. I is a municipal law. A territorial claim will only bind other countries if it is supported by international law.
- UNCLOS uses the term “internal waters” for nonarchipelagic states.
 - Archipelagic states use the term “archipelagic waters.”
 - They are the same because the Philippines still exercises sovereignty over bodies of water lying on the landward of the baselines (*See Magallona*).
- The Baselines Law used straight baselines (cf: *normal baselines* for nonarchipelagic states), in accordance with UNCLOS III and the Philippines being an archipelagic state (CCC pp. 3-6).
- Archipelagic doctrine – The waters around, between, and connecting the islands of the archipelago form part of the territorial sea of the archipelagic state.

Maritime zones, compared

Maritime zone	Distance from baseline	Extent of sovereignty or jurisdiction
Territorial Waters	12 NM	PH has sovereignty; Right of innocent passage
Contiguous Zone	24 NM	Only to implement customs, fiscal, immigration or sanitary laws, and regulations within the territory.
Exclusive Economic Zone	200 NM	Only <u>sovereign rights</u> ; PH can explore and exploit <u>natural resources</u> ; Jurisdiction over artificial islands, research, environmental protection.
Continental Shelves	350 NM	Only <u>sovereign rights</u> for exploring and exploiting

		natural resources.
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Magallona v. Ermita, G.R. 187167, Jul. 16, 2011

The 2009 Baselines Law (RA 9522) is not unconstitutional because it is a statutory tool to demarcate the country's maritime zones and continental shelf under UNCLOS III, and not to delineate Philippine territory.

Philippines v. China, PCA Case # 2013-19, Jul. 12, 2016

- China's nine-dash line claim is incompatible with UNCLOS.
- There was no legal basis for China to claim historic rights to resources within the sea areas falling within "nine-dash line"
- UNCLOS does not provide for a group of islands such as the Spratlys to generate maritime zones collectively as a unit.

3 types of maritime features under UNCLOS

Framework of the regime of islands

Feature	Description	Entitlement
Island	<ul style="list-style-type: none"> • Naturally formed • Surrounded by water • Above water at high tide 	1. TS 2. CZ 3. EEZ
Rock	<ul style="list-style-type: none"> • Naturally formed • Above water at high tide • Cannot sustain life 	1. TS Ex: Scarborough Shoal
Low-tide elevation	<ul style="list-style-type: none"> • Naturally formed • Surrounded by water • Submerged at high tide 	None Ex: Mischief Reef, Second Thomas Shoal (BRP Sierra Madre), and Reed Bank.

ART. II.**Declaration of Principles and State Policies****Kilosbayan v. Morato, G.R. 118910, Jul. 17, 1995**

The Art. II provisions are not self-executing. They do not confer rights which can be enforced in the courts, but only provide guidelines for legislative or executive action.

Tondo Medical v. CA, G.R. 177721, Jul. 3, 2007

As a general rule, constitutional provisions are considered self-executing.

Art. II provisions are not intended to be self-executing principles ready for enforcement through the courts. They are used by the judiciary as aids or guides in the exercise of its power of judicial review, and by the legislature in its enactment of laws.

Ocampo v. Enriquez, G.R. 225973, Nov. 8, 2016

The reasons for denying a cause of action to an alleged infringement of broad constitutional principles (e.g. Art. II) are sourced from basic considerations of due process and the lack of judicial authority to wade into the uncharted ocean of social and economic policy making.

⚠ Marcos burial was allowed because it was a political question. The president's power to bury Marcos was also within the faithful execution clause.

§1

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

Elements of a state:

1. People – population held by a common bond of law
2. Territory – See Art. I, but loss of territory during a war does not dissolve a state (see Philippine Commonwealth Government in Exile, 1942-1945)
3. Sovereignty:
 - a. Legal – power to make laws
 - b. Political – determines the course of law
4. Government – aggregate of institutions through which state power is exercised (CCC, pp. 10-11).

ACCFA v. CUGCO, G.R. L-21484, Nov. 29, 1969

The government exercises two general functions:

1. Constituent – relating to the maintenance of peace and the prevention of crime, those regulating property and property rights, those relating to the administration of justice and the determination of political duties of citizens, and those relating to national defense and foreign relations.
2. Ministrant – optional functions, to promote welfare, progress and prosperity of the people.

Bacani v. NACOCO, G.R. L-9657, Nov. 29, 1956

The government has two main functions:

1. Required to exercise to promote its objectives and which are exercised by it as an attribute of sovereignty; and
2. Those which it may exercise to promote merely the welfare, progress and prosperity of the people.
 - a. *This is a GOCC.*

VFP v. Reyes, G.R. 155027, Feb. 28, 2006

An entity is a governmental entity if:

1. It exercises sovereign functions; and
2. Its funds are public in character.

Ramiscal v. Sandiganbayan, G.R. 169727-28, Aug. 18, 2006

An entity is a governmental entity if:

1. It is created by law;

2. It is administered by the government (i.e. its board consists of government officials); and
3. It may receive appropriations from Congress.

The AFP-RSBS was found to be a GOCC, and its funds were of a public nature.

Javier v. Sandiganbayan, G.R. 147026-27, Sep. 11, 2009

A public office is the:

1. right, authority and duty,
2. created and conferred by law,
3. by which, for a given period, either fixed by law or enduring at the pleasure of the creating power,
4. an individual is invested with some portion of the sovereign functions of the government,
5. to be exercised by him for the benefit of the public.

Serena v. Sandiganbayan, G.R. 162059, Jan. 22, 2008

An investment in an individual of some portion of the sovereign functions of the government, to be exercised for the public's benefit, makes one a public officer. Compensation is not an essential element of public office, it is merely incidental.

Funa v. MECO, G.R. 193462, Feb. 4, 2014 ♥

The following make an entity a GOCC:

1. Its organization as stock or non-stock corporation;
2. The public character of its function; and
3. Government ownership.

MIAA v. CA, G.R. 1555650, Jul. 20, 2006

A government instrumentality (GI) lacks the first element (a stock or nonstock corporation) in *Funa*.

Phil. Society v. COA, G.R. 169752, Sep. 25, 2007

A sui generis entity or a quasi-public corporation lacks the third element (government ownership) in *Funa*.

Charter test (applicable after 1935):

1. GOCC – created by its own charter (or special law)
2. Private corporation – created under general corporation law

NFA v. Tagum, G.R. 261472, May 21, 2024



A GI with corporate powers:

1. Perform governmental functions; and
2. Enjoy operational autonomy.

Government instrumentality:

1. Public character of its function
2. Government ownership

Sui generis:

1. Organized as a stock or nonstock corporation
2. Public character of its function

Two kinds of government:

1. *De jure* – established by the authority of the legitimate sovereign
2. *De facto* – established in defiance of the legitimate sovereign (CCC, pp. 15-16).

In re Letter of Puno, A.M. 90-11-2697-CA, Jun. 29, 1992



A revolutionary government is a *de jure* government because it was instituted by the direct action of the people (i.e. 1986 Aquino Government).

Republic v. Sandiganbayan, G.R. 104768, Jul. 21, 2003



During the interregnum (Feb. 25-Mar. 24, 1986), the Aquino government was not bound by any higher international law. However, as a *de jure* government, it assumed the Philippines's treaty obligations under the Universal Declaration of Human Rights and

International Covenant on Civil and Political Rights.

Co Kim Chan v. Tan Keh, G.R. L-5, Sep. 17, 1945



During a de facto government, such as that established during belligerent occupation:

1. All acts and proceedings of the *de facto* government are valid;
2. Commercial laws and civil laws (e.g. marriage laws, public order, and social life) prior to the occupation remain valid unless prevented by circumstances;
3. Laws on political relations and exercise of political rights are suspended during military occupation.

Incorporation doctrine

§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 the nations.

While the Philippines renounces war, this does not preclude the country from engaging in a defensive war if a belligerent state decides to attack or invade (CCC, p. 16) (See Const. art. VI, §23(1), requiring a 2/3 vote of both houses of Congress to declare war).

Tañada v. Angara, G.R. 118295, May 2, 1997



Principle of auto-limitation of sovereignty – A portion of sovereignty may be waived without violating the Constitution, based on incorporation doctrine.

Pacta sunt servanda – A state which has contracted valid international obligations is bound to make in its legislation such modifications as may be necessary to ensure the fulfillment of the obligations undertaken.

Pharmaceutical v. Duque, G.R. 172034, Oct. 9, 2007

Soft law – an expression of nonbinding norms, principles, and practices that influence state behavior.

Soft laws are **not part of the law of the land per the incorporation doctrine**, as such, they need implementing legislation.

Kuroda v. Jalandoni, G.R. L-2662, Mar. 26, 1949

The power to prosecute war criminals is part of the law of the land, notwithstanding the Philippines's nonsigning of the Hague and Geneva Conventions. These agreements are part of the generally accepted principles of international law (*The country ratified the four Geneva conventions only in 1952*).

Mijares v. Ranada, G.R. 139325, Mar. 12, 2005

The rules of comity, utility and convenience of nations have established a usage among civilized states by which final judgments of foreign courts of competent jurisdiction are reciprocally respected and rendered efficacious under certain conditions that may vary in different countries.

BAYAN v. Zamora, G.R. 138570, Oct. 10, 2000 ♥

The Constitution may not be used as an excuse for the nonperformance of obligations and responsibilities under international law (*pacta sunt servanda* – Every treaty in force is binding upon the parties to it and must be performed by them in good faith).

Knights of Rizal v. DMCI, G.R. 213948, Apr. 25, 2017

An international charter (e.g. Venice Charter for the Conservation and Restoration of Monuments and Sites) that are mere guidelines and not treaties cannot be considered as enforceable and binding on the Philippines.

Two elements of customary international law ♥

1. Material factor – General and consistent practice of states followed by them
2. Psychological/subjective factor (*opinio juris*) – A sense of legal obligation

BAYAN (id.)

Agreements that allow the entry of foreign military bases, troops or facilities will only be effective in the Philippines if:

1. The agreement is in the form of a treaty;
2. Duly concurred in by the Senate (2/3 vote) or ratified by the people in a referendum if Congress so requires; and
3. Recognized as a treaty by the other contracting state.
 - a. A letter from the US ambassador sent to Sen. Miriam Defensor-Santiago stating that the US will treat the VFA as a treaty is enough.

Saguisag v. Executive Secretary, G.R. 212426, Jan. 12, 2016 ♥

Executive agreements, to become valid in the domestic sphere, must be traceable to an express or implied authorization from a prior treaty (e.g. VFA to EDCA), statute, or the constitution.

The president can enter into an executive agreement on foreign military bases, troops, or facilities if:

1. It is not the instrument that allows the entry of such; or
2. It just aims to implement an existing law or treaty.

Parenthetically, the **transformation doctrine**:

Art. VII, §21

No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

Art. XVIII, §25

After the expiration in 1991 of the Agreement between the

Republic of the Philippines and the United States of America concerning military bases, foreign military bases, troops, or facilities shall not be allowed in the Philippines except under a treaty duly concurred in by the Senate and, when the Congress so requires, ratified by a majority of the votes cast by the people in a national referendum held for that purpose, and recognized as a treaty by the other contracting State.

Executive agreements cannot create new international agreements that are not expressly allowed or reasonably implied in the law they purport to implement.

If there is an irreconcilable difference between a treaty or a law, the one created latter takes precedence. However, if an executive agreement is inconsistent with either a law or a treaty, it is ineffective (*See Pangilinan*).

Pangilinan v. Cayetano, G.R. 238875, March 16, 2021



A treaty cannot amend a statute. A statute enjoys primacy over a treaty. It is passed by both the House of Representatives and the Senate, and is ultimately signed into law by the president. In contrast, a treaty is negotiated by the president, and legislative participation is limited to Senate concurrence. Thus, there is greater participation by the sovereign's democratically elected representatives in the enactment of statutes.

⚠️ *Is this obiter? Likely.*

Treaty vs. executive agreement

	Treaty	Executive agreement
Definition	An international instrument	Executive agreements <u>implement existing</u>

	concluded between states in written form and governed by international law	<u>policies</u> usually to adjust treaty details, statute (Congress), or executive action.
Stages of approval	<u>Ratification</u> by the president; and <u>Concurrence</u> of $\frac{2}{3}$ of the senators	<u>Ratification</u> by the president
Limitations	Must conform to the constitution	Must conform to a treaty, statute, and the constitution
Binding in international law?	Yes	Yes
Binding in municipal law?	Yes	Yes, <i>subject to treaty/statutory limits</i>

Civilian supremacy clause

§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.

Role of the AFP:

1. Protector of the people and the state;
2. Secure the sovereignty of the state; and
3. Secure the integrity of the national territory.

The civilian supremacy clause is bolstered by Const. art. VII, §18, because the president, a civilian, heads the AFP.

Art. VII, §18

The President shall be the Commander-in-Chief of all armed forces of the Philippines...

IBP v. Zamora, G.R. 141284, Aug. 15, 2000



The deployment of the Marines does not constitute a breach of the civilian supremacy clause because this instance constituted the permissible use of military assets for civilian law enforcement.

The Philippines uses the military in the implementation and execution of traditionally civilian functions, such as:

1. elections,
2. relief and rescue,
3. anti-drug enforcement activities, among others.

§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 fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal military or civil service.

A policy requiring mandatory military training is required to be in the form of an Act of Congress, **like Republic Act 7077**:
SEC. 38. Reserve Officers' Training Corps (ROTC).— Military training for students enrolled in colleges, universities and similar institutions of learning is mandatory pursuant to the provisions of the National Defense Act and the 1987 Constitution **[Repealed by RA 9163, approved Jan. 23, 2002]**.

§5

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.

The provision implies a hierarchy of rights—first is life, then, liberty, then property (Bernas Constitution, p. 71).

§6

The separation of Church and State shall be inviolable.

§7

The State shall pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination.

§8

The Philippines, consistent with the national interest, adopts and pursues a policy of freedom from nuclear weapons in its territory.

Q: *What are banned?*

A: Only nuclear arms. That is, the use and stockpiling of nuclear weapons, devices, and parts thereof.

Q: *How absolute is the ban?*

A: It is not a ban on peaceful uses of nuclear energy. For a nuclear vessel to be banned, it must *actually* possess nuclear weapons.

Social justice I

§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.

Social justice II

§10

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

Human rights

§11

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

§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 young for civic efficiency and the development of moral character shall receive the support of the Government.

§12 consists of the following state policies:

1. Family as a basic social institution, and autonomous
2. Protection of the unborn
3. Natural right and duty of parents

Imbong v. Ochoa, G.R. 204819, Apr. 8, 2014



The clear and unequivocal intent of the 1987 Constitution framers in protecting the life of the unborn from conception was to prevent Congress from legalizing abortion.

SPARK v. Quezon City, G.R. 225442, Aug. 8, 2017



While parents have the primary role in child-rearing, it should be stressed that “when actions concerning the child have a relation to the public welfare or well-being of the child, the state may act to promote these legitimate interests.”

Legitimate state interests:

1. Health
2. Public safety
3. Peace and order
4. Welfare

As parens patriae, the state has the inherent right and duty to aid parents in the moral development of their children.

Wisconsin v. Yoder, 406 US 205, May 15, 1972



The State's claim that it is empowered, as parens patriae, to extend the benefit of secondary education to children regardless of the wishes of their parents cannot be sustained against a free exercise claim.

Only those interests of the State of the highest order and those not otherwise served can over-balance the primary interest of parents in the religious upbringing of their children (Bernas Constitution, p. 86).

Parens patriae – the government, or any other authority, regarded as the legal protector of citizens unable to protect themselves.

Youth

§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.

Women

§14

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

Garcia v. Drilon, G.R. 179267, Jun. 25, 2013



There is an unequal power relationship between men and women, making the latter the more likely victims of violence. Hence, RA 9262 is not unconstitutional because it rests on substantial distinctions between men and women.

Right to health; **self-executory**

§15

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

Imbong (id.)

A component to the right to life is the constitutional right to health. Art. II, §15, as well as Art. XIII, §11 and Art. XVI, §9, are self-executing.

Right to balanced and healthful ecology; **self-executory**

§16

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.

Oposa v. Factoran, G.R. 101083, Jul. 30, 1993 ♥



Petitioners' personality to sue on behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned.

The right to a balanced and healthful ecology concerns nothing less than self-preservation and self-perpetuation.

- The right to a balanced and healthful ecology need not even be written in the constitution, for they are assumed to exist from the inception of mankind.
- The right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment, as revealed in the deliberations of the framers.

Following the holding in *Oposa*, the Supreme Court has instituted mechanisms to enforce the constitutional right to a balanced and healthful ecology through the **Rules of Procedure for Environmental Cases** (A.M. 09-06-08-SC, Apr. 13, 2010).

- §4. *Who may file.* — Any real party in interest, including the government and juridical entities authorized by law, may file a civil action involving the enforcement or violation of any environmental law.
- §5. *Citizen suit.* — Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws ...

The rules also created a remedy called the **Writ of Kalikasan**. To avail the writ:

1. The constitutional right to a balanced and healthful ecology is violated, or threatened (*what?*)
2. with violation by an unlawful act or omission of a public

- official or employee, or private individual or entity, (who?)
3. involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces. (where?)

Arigo v. Swift, G.R. 206510, Sep. 16, 2014



The court affirmed that ordinary citizens have legal standing to sue for the enforcement of environmental rights and represent their own and future generations, under the concept of intergenerational responsibility.

Paje v. Casino, G.R. 207257, Feb. 3, 2015



The writ of kalikasan is principally predicated on an actual or threatened violation of the constitutional right to a balanced and healthful ecology, which involves environmental damage of a magnitude that transcends political and territorial boundaries.

Precautionary principle – When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect.

The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt (*Part V, Rule 20, §1, Rules of Procedure for Environmental Cases*).

West Tower Condominium v. FPIC, G.R. 194239, Jun. 16, 2015



The precautionary principle only applies when the link between the cause, that is the human activity sought to be inhibited, and the effect, that is the damage to the environment, cannot be established with full scientific certainty.

⚠️ *In this case, though, the principle wasn't used.*

Arts and culture

§17

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.

Labor rights

§18

The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

Filipino-first

§19

The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos.

Garcia v. BOI, G.R. 92024, Nov. 9, 1990



Art. II, §19 must be read with Art. XII, §10. Under Art. XII, §10, the state has the duty to regulate foreign investments in accordance with its national goals and priorities. The development of a self-reliant and independent national economy effectively controlled by Filipinos is mandated in Art. II, §19.

Private sector

§20

The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.

Agrarian reform

§21

The State shall promote comprehensive rural development and agrarian reform.

*IP rights***§22**

The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.

*NGOs***§23**

The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.

§24

The State recognizes the vital role of communication and information in nation-building.

§25

The State shall ensure the autonomy of local governments.

§26

The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law.

Pamatong v. COMELEC, G.R. 161872, Apr. 13, 2004



Art. II, §26 is not self-executory. The framers intended the provision to limit the number of offices only to what may be necessary, yet offering equal opportunities to access it. It is an expression of a desired policy objective and not reflective of the imposition of a clear state burden, which is to enact measures that would accommodate as many people as possible into public office.

§27

The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

§28

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.

PSBank v. Senate Impeachment Court, G.R. 200238, Feb. 9, 2012

A recognized exception in the policy of full public disclosure is the bank secrecy law (RA 1405) and foreign currency deposits act (RA 6426). The latter provides that disclosure is only allowed upon the written permission of the depositor.

(Hence, a TRO will not issue because the chief justice has shown a clear right to maintain confidentiality of his foreign currency deposits.)

Neri v. Senate, G.R. 180643, Mar. 25, 2008

Information covered by executive privilege is also exempted from disclosure.

In re production of court records, Feb. 14, 2012

Court records which are “predecisional” and “deliberative” in nature are thus protected and cannot be the subject of a subpoena if judicial privilege is to be preserved (*deliberative process privilege*).

These privileges belong to the judiciary and are for the Supreme Court to waive.

**ART. VI.
The Legislative Department**

§1

The Legislative power shall be vested in a Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum.

Bicameralism – Two houses of Congress.

Legislative power – Authority to make, alter, and repeal laws.

Limits on legislative power:

1. Substantive (mostly the Bill of Rights); and
2. Procedural (manner and form of passing bills) (*Bernas Constitution, pp. 676-679*)

Datu Michael Abas Kida v. Senate, G.R. 196271, Oct. 18, 2011

Congress cannot bind itself or its successors by enacting irrepealable laws except when so restrained. Every legislative body may modify or abolish the acts passed by itself or its predecessors.

Principle of nondelegation of legislative power – Congress may

not delegate powers it may rightfully exercise except:

1. To allow agencies to fill-up the details of the law; or
2. To pass contingent legislation, i.e. to delegate the ascertainment of facts necessary to bring the law into effect (*Bernas Constitution, pp. 685-686*).

ABAKADA v. Ermita, G.R. 168056, Sep. 1, 2005

Congress may delegate to the executive the determination of certain facts or conditions, or the happening of contingencies where the operation of a statute depends on. Congress must prescribe the sufficient standards, policies or limitations in the delegate's authority. After all, the ascertainment of facts is simply ancillary to legislation.

Tests of a valid delegation of legislative power:

1. Completeness test – The law must be complete in itself, and it must set forth the policy to be carried out or implemented by the delegate.
2. Sufficient standard test – The law must fix a standard, the limits of which are sufficiently determinate or determinable to which the delegate must conform in the performance of his functions (*Bernas Constitution, pp. 686-687*).
 - a. The standards may be implied in the law.






For a regulation to have the force of **penal laws**, it must:


1. Define the criminal act;
2. Provide the penalties; and
3. It must be published (*Bernas Constitution, p. 690*).

The fixing of penalties cannot be delegated (*CCC, p. 36*).

Examples of valid delegation of legislative power

Case	Delegate	Power delegated
Rubi v. Prov'l Board 	Provincial governor	To order non-Christians to

		live on unoccupied private lands (Administrative Code)
Social Justice Society v. DDB 	Schools and employers	Random drug testing (Dangerous Drugs Act)
La Suerte v. CA 	Department of Finance	Promulgate revenue regulations on tobacco products (NIRC)
DOTr v. Phil. Petroleum 	Oil Pollution Management Fund Committee (OPMF)	Determine the amount of contribution for the OPMF (Oil Pollution Compensation Act)
ABAKADA v. Purisima 	President	Fix revenue targets (Attrition Act)
Araneta v. Gatmaitan 	President	Banning the use of trawls for fishing (Fisheries Code)
People v. Rosenthal 	Insular treasurer	Cancel a permit to sell securities (Blue Sky Law)
Eastern Shipping Lines v. POEA 	POEA	Prescribe standard contract for seafarers (POEA Charter)
Tablarin v. Gutierrez 	Board of Medical Education	Require NMAT before admission (Medical Act)
Beltran v. Sec. of Health	Secretary of health	Allow extension of the phase-out period

		of commercial blood banks (National Blood Services Act)
KMU v. Aquino III 	Social Security Commission	Fix rate of contribution (Social Security Act)
PHILCOMSAT v. Alcuaz 	National Telecommunications Commission	Determine and prescribe rates to the operation of public service communications (NTC Charter)
Acosta v. Ochoa 	Philippine National Police	Prescribe reasonable licensing fees, regulate gun ownership, and promulgate IRR (Comprehensive Firearms and Ammunition Regulation Act)

Examples of **invalid** delegation of legislative power

Alyansa v. ERC, G.R. 227670, May 3, 2019

The delegation of a power to “implement” does not include the power to postpone the effectivity of a policy. Without explicit statutory delegation, an agency cannot exercise rule-making powers.

People v. Maceren, G.R. L-32166, Oct. 18, 1977

A subordinate authority cannot criminalize an act which the primary legislation does not criminalize.

US v. Barrias, G.R. 4349, Sep. 24, 1908

The penalty imposed in a subordinate legislation must not go beyond what the act has prescribed.

People v. Dacuycuy, G.R. L-45127, May 5, 1989

What valid delegation presupposes is an exercise of discretion to fix the length of imprisonment. However, this must be encompassed within specific or designated limits provided by law.

People v. Vera, G.R. 45685, Nov. 16, 1937

An act must not depend on its actual implementation to other bodies (e.g. provincial boards) as the executive is not given the discretion to not implement a law.

Acosta v. Ochoa, G.R. 211559, Oct. 15, 2019

A “reasonable” standard for inspection is not enough. A waiver of the constitutional right against unreasonable searches and seizures must be as informative as to detail its scope and extent.

Ynot v. IAC, G.R. 74457, March 20, 1987

The phrase “may see fit” is an extremely generous and dangerous condition, if condition it is. It does not prescribe a standard, reasonable guide, or limitations.

Belgica v. Ochoa, G.R. 208566, November 19, 2013

Lawmakers cannot exercise the power of appropriation individually through post-enactment identification authority (i.e. Pork Barrel scheme) (*see also* Const. art. VI, §29(1)).

COCOFED v. Republic, G.R. 177857-58, January 24, 2012

A law is invalid if it does not spell out the mechanisms who will benefit from a special trust fund (i.e. lacking definition of a “coconut farmer” nor how it will be distributed, notwithstanding a declared policy in the statute.

Implementing rules and regulations (IRR) crafted by administrative agencies have the force and effect of a law. Congress may delegate the creation of an IRR to the executive branch.

However, Congress cannot grant itself the power to approve such IRR because legislative vetoes are unconstitutional (*ABAKADA v. Purisima*).

After the law leaves Congress, it can only do the following:

1. Scrutiny based on budget hearing, question hour (Const. art. VI, §22), and power of confirmation of officials (through the Commission on Appointments); and
2. Inquiries in aid of legislation (Const. art. VI, §21) (*Bernas Constitution*, p. 695)

SEC v. Interport, G.R. 135808, Oct. 6, 2007

The mere absence of implementing rules cannot effectively invalidate provisions of law, where a reasonable construction that will support the law may be given. The IRR cannot assert a more extensive prerogative or deviate from the mandate of the statute.

§2

The Senate shall be composed of twenty-four Senators who shall be elected at large by the qualified voters of the Philippines, as may be provided by law.

“as may be provided by law” refers to “the qualified voters of the Philippines”

§3 ★

No person shall be a Senator unless he is a natural-born Filipino 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 Philippines for not less than two year immediately preceding the day of the election.

No.	Qualifications of a senator	Reckoned from
1	Natural born citizen	n/a
2	Able to read and write	
3	A registered voter	
4	35 years old	Day of the election
5	Resident of the Philippines for 2 years	

§4

The term of office of the Senators shall be six years and shall commence, unless otherwise provided by law, at noon on 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 an interruption in the continuity of his service for the full term of which he was elected.

Congress, by law, can change the start of the senators' term.

A senator will need to wait for only 3 years to refresh the two-term limit. The limit cannot be circumvented by *voluntary* resignation.

§5 ★

(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 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 a party-list system of registered national, regional, and sectoral parties or organizations.

(2) The party-list representatives shall constitute twenty *per centum* of the total number of representatives including those under the party-list. **[Foregoing sentence spent as of 1995.]**

(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.

Apportionment – Allocation of seats in a legislative body in proportion to the population (not voters!).

Reapportionment – Realignment or change in the districts brought about by changes in population and mandated by the constitutional requirement of equality of representation (CCC, p. 41).

Rules for legislative districts ♥

1. The apportionment be in accordance with the population and on the basis of a uniform and progressive ratio.
2. Districts must comprise as far as practicable, contiguous, compact, and adjacent territory (*anti-gerrymandering*).
3. Each city with a population of 250,000 is entitled to at least 1 representative; and
4. Each province, regardless of population, is entitled to 1

representative.

Bagabuyo v. COMELEC, G.R. 176970, Dec. 8, 2008



There is no need for any plebiscite in the creation, dissolution or any similar action on a legislative district.

	LGU	Legislative district
Nature	Political and corporate unit	Representative unit
Role	Instrumentality of the state in carrying out functions of government	Delineates areas who will choose a representative
Officials	Province – governor; city/municipality – mayor; barangay – punong barangay	None, a representative only ensures that the voice of the people is heard in Congress
How created	Act of Congress	Act of Congress or by ordinance of the Sangguniang Panlalawigan/Panlungsod for a barangay only (Local Gov't Code, §6), <u>and approved in a plebiscite</u> (Const. art. X, §10).

Tobias v. Abalos, G.R. 114783, Dec. 8, 1994



A special law creating a city may also include a provision giving it a separate legislative district. Congress is presumed to have considered

the minimum requirements for the establishment of separate legislative districts. After all, Congress has the power to reapportion legislative districts.

Mariano v. COMELEC, G.R. 118577, Mar. 7, 1995



A city's number of legislative districts may still be increased so long as it has met the minimum population requirement of 250,000.

Aldaba v. COMELEC, G.R. 188078, Jan. 25, 2010



A city is not entitled to its legislative district unless it has attained the 250,000-population threshold, whether actually or projected. This must be substantiated by credible evidence.

Sema v. COMELEC, G.R. 178628, Jul. 16, 2008



The power to create a province or city inherently involves the power to create a legislative district. Only Congress can create legislative districts, and it cannot delegate this.

Montejo v. COMELEC, G.R. 118702, Mar. 16, 1995



Only Congress can do reapportionment. This implies that even COMELEC cannot move municipalities from one district to another.

Herrera v. COMELEC, G.R. 131499, Nov. 17, 1999



Contiguous and/or adjacent means adjoining, nearby, abutting, having a common border, connected, and/or touching along boundaries often for considerable distances.

Aquino III v. COMELEC, G.R. 189793, Apr. 7, 2010



Const. art. VI, §5(3) requires a 250,000 minimum population only for a city to be entitled to a representative, but not so for a province. Population isn't the sole basis for the creation of a legislative district (e.g. importance of the towns and the city, language).

Rules for party-lists ♥

1. 20% of all House seats must belong to party-list representatives.
 - a. $\text{No. of District Rep.} / 0.8 = \text{Total no. of rep.}$
2. The following can join the party-list elections:
 - a. National parties or organizations,
 - b. Regional parties or organizations, and
 - c. Sectoral parties or organizations (*Atong Paglaum v. COMELEC*).
3. The parties entitled to seats are computed in accordance with *BANAT v. COMELEC*.
4. The maximum number of seats a party-list can get is 3.

Who can join the party-list elections

Atong Paglaum v. COMELEC, G.R. 203766, Apr. 2, 2013 ♥



1. *National/regional parties or organizations.*
 - a. It registers under the party-list organization.
 - b. Does not field district representative candidates.
 - i. If it has district representative candidates, only its sectoral wing can join the party-list race.
2. *Sectoral parties or organizations.*
 - a. Marginalized and underrepresented (e.g. peasant, labor, fisherfolk, etc); or
 - b. Lacking in “well-defined political constituencies” (e.g. youth, professionals, elderly, women, etc.).

For sectoral parties and organizations, the following membership conditions apply:

1. A majority of the members of sectoral parties or organizations that represent the “marginalized and underrepresented” must belong to the “marginalized and underrepresented” sector they represent. Same applies for parties that lack “well-defined political constituencies.”
2. Their nominees must either:
 - a. Belong to their respective sectors; or
 - b. Must have a track record of advocacy for their respective sectors (see *Abang Lingkod*).

Abang Lingkod v. COMELEC, G.R. 206952, Oct. 22, 2013



Evidence showing a track record in representing the marginalized and underrepresented sectors is only required from nominees of sectoral parties or organizations that represent the marginalized and underrepresented who do not factually belong to the sector represented by their party or organization.

On disqualification of parties and nominees

Magdalo v. COMELEC, G.R. 190793, Jun. 19, 2012



COMELEC may disqualify party-lists which seek to achieve their goals through violence or unlawful means.

Ang Ladlad v. COMELEC, G.R. 190582, Apr. 8, 2010



Mere moral disapproval is not a sufficient governmental interest to justify the exclusion of homosexual individuals from participation in the party-list system. Hence, COMELEC cannot use religious references (e.g. Bible or Koran) to justify the disqualification of a party-list.

Albano v. COMELEC, G.R. 257610, Jan. 24, 2023



A candidate who lost in an elective office in the immediately preceding election can be a party-list nominee in the next election.

PGBI v. COMELEC, G.R. 190529, Apr. 29, 2010



In light of *BANAT*, the disqualification for failure to get 2% in the last two preceding elections must be interpreted as applicable to party-list groups that did not qualify for a seat in the two preceding elections for the constituency in which it registered.

How party-list election winners are computed

BANAT v. COMELEC, G.R. 179271, Apr. 21, 2009 ♥



The following guidelines shall be observed in allocating the

party-list seats:

1. The party-lists shall be ranked from highest to lowest based on their votes garnered.
2. The party-lists garnering at least 2% of the votes are entitled to one guaranteed seat each.
3. Those garnering the sufficient number of votes in (1) shall be entitled to additional seats in proportion to their total number of votes until all the additional seats are allocated.
4. No party-list shall have more than 3 seats.

Rank	Party	Votes Garnered	Votes Garnered over Total Votes for Party List, in %	Guaranteed Seat	Additional Seats	(B) plus (C), in whole integers	Applying the three seat cap
			(A)	(B)	(C)	(D)	(E)
1	BUHAY	1,169,234	7.33%	1	2.79	3	N.A.
2	BAYAN MUNA	979,039	6.14%	1	2.33	3	N.A.
3	CIBAC	755,686	4.74%	1	1.80	2	N.A.
4	GABRIELA	621,171	3.89%	1	1.48	2	N.A.
5	APEC	619,657	3.88%	1	1.48	2	N.A.
6	A Teacher	490,379	3.07%	1	1.17	2	N.A.
7	AKBAYAN	466,112	2.92%	1	1.11	2	N.A.
8	ALAGAD	423,149	2.65%	1	1.01	2	N.A.
g [31]	COOP-NATCCO	409,883	2.57%	1	1	2	N.A.
10	BUTIL	409,160	2.57%	1	1	2	N.A.

§6 ★

No person shall be a Member of the House of Representatives unless he 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.

Qualification	District rep.?	Party-list rep.?
Natural-born citizen	Yes	Yes
25 years old		In case of a nominee of the youth sector, he must be at least 25 but not more than 30 years of age on the day of the election (PL Law).
Able to read and write		Registered voter in the Philippines
Registered voter in the district		Resident of the Philippines for 1 year
Resident in the district for 1 year	No	Yes
A member of the party-list for 90 days		A statutory requirement, reckoned from the day of the elections (PL Law).

Natural-born citizen – Philippine citizen from birth without having to perform any act to acquire or perfect their Philippine citizenship.

Bengson III v. HRET, G.R. 142840, May 7, 2001

Repatriation results in the recovery of the original nationality. This means that if a person is originally a natural-born citizen before the loss of citizenship, repatriation will restore his former status as a natural-born Filipino.

Residency – It really talks about domicile.

Domicile – A fixed permanent residence for which, whenever one is absent for business or pleasure or whatever reason, one intends to return (CCC, p. 48).

Domino v. COMELEC, G.R. 134015, Jul. 19, 1999 ♥

To successfully effect a change of domicile one must demonstrate:

1. an actual removal or an actual change of domicile;
2. a bona fide intention of abandoning the former place of residence and establishing a new one; and
3. definite acts which correspond with the purpose.

Aquino v. COMELEC, G.R. 120265, Jul. 19, 1999

Leasing a condominium in the district one seeks to run as representative is insufficient to effect a change in domicile (*see also Domino*, where the court held that a lease of a house and lot alone is not a change in domicile).

Perez v. COMELEC, G.R. 133944, Oct. 28, 1999

A lease of an apartment may prove a change in domicile, if coupled with other proof that shows the bona fide intention to reside in the new domicile.

The fact that a person is registered as a voter in one district is not proof that he is not domiciled in another district.

Fernandez v. HRET, G.R. 187478, Dec. 21, 2009

The law does not require a person to be in his home 24 hours a day, seven days a week, in order to fulfill the residency requirement.

The constitution does not require a candidate to be a property owner in the district where he seeks to run.

Romualdez-Marcos v. COMELEC, G.R. 119976, Sep. 18, 1995 ♥

1. The absence from legal residence or domicile to pursue a profession, to study or to do other things of a temporary or semi-permanent nature does not constitute loss of residence.
2. A widow could regain her domicile of origin after the death of her spouse.

⚠ *The decision did not contain an opinion which commanded the concurrence of a majority (Bernas Constitution, p. 717).*

Reyes v. COMELEC, G.R. 207264, Jun. 25, 2013

The loss of Philippine citizenship by naturalization abroad means abandoning one's domicile in the Philippines.

Hence, upon re-acquisition of Filipino citizenship, a person must still show that he chose to establish his domicile in the Philippines through positive acts, and the period of his residency shall be counted from the time he made it his domicile of choice.

§7

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 on the thirtieth day of June next following their election.

No Members of the House of Representatives shall serve for 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 service for the full term for which he was elected.

Congress, by law, can change the start of the representatives' term.

The three-term limit cannot be circumvented by *voluntary* resignation.

§8

Unless otherwise provided by law, the regular election of the Senators and Members of the House of Representatives shall be held on the second Monday of May.

Congress, by law, can change the date of the elections.

Macalintal v. COMELEC, G.R. 263590, Jun. 27, 2023

The postponement of elections must be justified by reasons sufficiently important, substantial, or compelling under the circumstances. The postponement must not violate the constitution or existing laws.

§9

In case of vacancy in the Senate or in the House of Representatives, a special election may be called to fill such vacancy in the manner prescribed by law, but the Senator or Member of the House of Representatives thus elected shall serve only for the unexpired term.

Tolentino v. COMELEC, G.R. 148334, Jan. 21, 2004

COMELEC, in the exercise of its discretion to use means and methods to conduct the special election within the confines of RA 6645, may choose to adopt a recommendation by a house of Congress how to conduct a special election.

§10

The salaries of Senators and Members of the House of Representatives shall be determined by law. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the Senate and the House of Representatives approving such increase.

Q: If a law was passed in 2020 to increase the salaries of Senators and Members of the House. When will it take effect? Why?

A: It will take effect in 2025. A Congress that passed the 2020 salary hike consisted of House members elected in the 2019 elections, and Senators who were elected in the 2016 and 2019 elections. The term of

the senators elected in 2016 will expire in 2022. The term of the senators elected in 2019 will expire in 2025. The term of all the House members elected in 2019 will expire in 2022. As such, the salary increase will only take effect after the 2025 Congressional elections, or when the full terms of the members of Congress who approved the increase will end.

*Parliamentary immunity***§11**

A Senator or Member of the House of Representatives shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. No Member shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof.

Two kinds of privileges:

1. Privilege from arrest; and
2. Parliamentary privilege (speech or debate clause) (CCC, p. 52).

Privilege from arrest applies:

1. In offenses with a penalty of not more than six years imprisonment, and
2. While Congress is in session (*id.*).

People v. Jalosjos, G.R. 132875-76, Feb. 3, 2000

An imprisoned candidate who won a seat in the House of Representatives cannot use the privilege from arrest clause to allow him to leave jail and attend sessions.

Election to Congress is not a reasonable classification in criminal law enforcement as the functions and duties of the office are not substantial distinctions which lift one from the class of prisoners.

Trillanes v. Pimentel, G.R. 179817, Jun. 27, 2008

A detainee (trial pending) elected to Congress cannot also invoke the privilege to allow him to attend sessions.

Parliamentary privilege – Members of Congress may not be held liable in any other place for any speech or debate in Congress or in any of its committees.

The privilege applies even when Congress is not in session (CCC, p. 53).

The privilege only applies “in any other place,” implying that the member may be held liable by Congress if it so chooses.

Jimenez v. Cabangbang, G.R. L-15905, Aug. 3, 1966

The speech or debate clause only privileges utterances made by the member of Congress in the performance of their official functions such as:

1. Speeches delivered
2. Statements made
3. Votes cast, or
4. Bills introduced.

It also extends to *other acts* performed by the legislator, either in Congress or outside the premises housing its offices, in the official discharge of their duties as members of Congress and of Congressional Committees duly authorized to perform its functions as such at the time of the performance of the acts in question.

Trillanes v. Castillo-Marigomen, G.R. 223451, Mar. 14, 2018

Parliamentary non-accountability cannot be invoked when the lawmaker's speech or utterance is made outside sessions, hearings or debates in Congress, extraneous to the due functioning of the (legislative) process (i.e. media interviews).

Pobre v. Defensor-Santiago, A.C. 7399, Aug. 25, 2009

A senator's privilege speech may not be used against her for administrative proceedings (i.e. in the Supreme Court).

§12

All Members of the Senate and the House of Representatives shall, upon assumption of office, make a full disclosure of their financial and business interests. They shall notify the House concerned of a potential conflict of interest that may arise from the filing of a proposed legislation of which they are authors.

A lawmaker is not precluded from proposing laws that will benefit their business interests—they only need to *disclose*.

§13

No Senator or Member of the House of Representatives may hold any other office or employment in the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his term without forfeiting his seat. Neither shall be appointed to any office which may have been created or the emoluments thereof increased during the term for which he was elected.

Generally: A member of Congress can opt to resign if he wants to accept an office or employment in the government (e.g. GOCCs, GIs, agencies, subdivisions, etc.).

Exception: Even if he resigns, a member cannot be appointed to any office created or benefits increased during the term he was elected.

- **Term:** entire 3/6 years for representatives or senator, as the case may be (*Bernas Constitution*, pp. 730-731).

Liban v. Gordon, G.R. 175352, Jul. 15, 2009 & Jan. 18, 2011



A lawmaker can concurrently serve as a chairman of the board of a nongovernment entity (i.e. Philippine Red Cross, which is a sui generis organization)

§14

No Senator or Member of the House of Representatives may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned and controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office.

Three prohibitions on conflicts of interest:

1. No personal appearance as a counsel;
 - a. The lawmaker's law firm is allowed.
2. Not be interested financially in any government contract, franchise or privilege during the term of office; and
3. Intervene in any matter for his pecuniary benefit or where he may be called to act as a lawmaker (CCC, p. 56)

Puyat v. De Guzman, G.R. L-51122, Mar. 25, 1982



Appearing as an intervenor is an indirect appearance as counsel before an administrative body (i.e. SEC), and that was a circumvention of the constitutional prohibition.

§15

The Congress shall convene once every year on the fourth Monday of

July for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays, Sundays, and legal holidays. The President may call a special session at any time.

Pimentel v. Joint Committee, G.R. 163783, Jun. 22, 2004



Only the legislative functions of a Congress end when a session adjourns. However, its nonlegislative functions may continue after adjournment, such as the canvassing of votes for the president and vice president following an election.

Internal business of Congress

§16

(1) The Senate shall elect its President and the House of Representatives its Speaker, by a majority vote of all its respective Members.

Each House shall choose such other officers as it may deem necessary.

(2) A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent Members in such manner, and under such penalties, as such House may provide.

(3) Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, suspend or expel a Member. A penalty of suspension, when imposed, shall not exceed sixty days.

(4) Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may, in its judgment, affect national security; and the yeas and nays on any question shall, at the request of one-fth of the Members present, be entered in the Journal.

Each House shall also keep a **Record** of its proceedings.

(5) Neither House during the sessions of the Congress shall, without the **consent of the other**, adjourn for more than **three days**, nor to any **other place** than that in which the two Houses shall be sitting.

¶1: Congressional officers

Baguilat v. Alvarez, G.R. 227757, Jul. 25, 2017



A house of Congress may choose to have other officers (other than the speaker and president, e.g. majority and minority leaders), and that the manner and method as to how these officers are chosen is something within its sole control.

¶2: Quorum to do business

Avelino v. Cuenco, G.R. L-2821, Mar. 4, 1949



A quorum is a majority of the **members who can be compelled to attend the session**.



(this is how you compel attendance of absent lawmakers 😊)

Datu Michael Abas Kida (*id.*)

A law imposing a higher voting requirement violates the constitution.

A 2/3 voting requirement is higher than what the constitution requires for the passage of bills, and served to restrain the plenary powers of Congress to amend, revise or repeal the laws it had passed.

¶3: Internal rules

Arroyo v. De Venecia, G.R. 127255, Aug. 14, 1997



The rules adopted by deliberative bodies are subject to revocation, modification or waiver at the pleasure of the body adopting them. Parliamentary rules are merely procedural, and with their observance, the courts have no concern. **They may be waived or disregarded by the legislative body.**

Mere violations of internal rules of the House—and not constitutional requirements—for the enactment of a law are **insufficient to void the validity of acts** affected by the disregarded/violated rules.

Exception: When there was a violation of a **constitutional provision** (See Const. art. VI, §26-27), or **rights of private individuals**.

Lagman v. Medialdea, G.R. 243522, Feb. 19, 2019



The right to promulgate its own rules to govern its proceedings authority is recognized as a grant of full discretionary authority to each house of Congress. This includes the manner that Congress approves the extension of martial law.

ABAKADA v. Ermita, G.R. 168056, Sep. 1, 2005



Corollary to this discretionary authority is authority to create a bicameral conference committee (BCC). The BCC is mandated to settle the differences between the disagreeing provisions in the House and Senate bills.

¶3: Internal discipline

Osmeña v. Pendatun, G.R. L-17144, Oct. 28, 1960



The House is the judge of what constitutes disorderly behavior, not

only because the constitution has conferred jurisdiction upon it, but also because the matter depends mainly on factual circumstances of which the House knows best but which can not be depicted in black and white for presentation to, and adjudication by the courts.

Defensor-Santiago v. Sandiganbayan, G.R. 128055, April 18, 2001



The suspension order under RA 3019 is distinct from the power of Congress to discipline its own ranks. Suspension under §16 is punitive, while preventive suspension is an aid so that the public officer cannot influence the investigation process. Hence, a preventive suspension can go more than 60 days.

Enrolled bill doctrine – The presumption that a bill is valid once it has been signed by the presiding officers of both houses of Congress and approved by the president. It holds that a formally enacted and authenticated bill is deemed to have completed the legislative process and protects its finality from judicial scrutiny over procedural issues or legislative errors (*Arroyo, id.*).

¶4: Journal

US v. Pons, G.R. 11530, Aug. 12, 1916



There are considerations of public policy led to the adoption of the rule giving verity and unimpeachability to legislative records.

Tinio v. Duterte, G.R. 236118, Jan. 24, 2023



A video recording of a Congressional session neither serves the same purpose as the Congressional Journals nor does it have a binding effect upon this court, because no less than the constitution mandates the journal to be a detailed written account of the events that transpired on a particular session.

Casco Phil. Commercial Co. v. Gimenez, G.R. L-17931, Feb. 28, 1963



It is well settled that the enrolled bill is conclusive upon the courts as regards the tenor of the measure passed by Congress and approved

by the president.

Astorga v. Villegas, G.R. L-23475, Apr. 30, 1974



The enrolled bill doctrine does not apply when one of the presiding officers of Congress withdraws their signature on the bill. The presiding officers' signature is a mode of authentication.

Enrolled bill > Journal > Extraneous evidence (*CCC, p. 62*)

¶5: Recess and sittings

Q: Can the Senate decide to hold a session in Baguio?

A: No. The Senate cannot unilaterally decide to hold sessions in Baguio without the consent of the House of Representatives. Either house cannot hold their sessions other than its current meeting place (i.e. GSIS Building for the Senate and Batasang Pambansa for the House of Representatives) now without the other house's consent.

Electoral tribunals

§17

The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of the election, returns, and qualifications of their respective members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

Extent of powers

David v. SET, G.R. 221538, Sep. 20, 2016



The use of the word “sole” emphasizes the **exclusive character** of the jurisdiction conferred. It is **only before the electoral tribunals** that post-election challenges against the election, returns, and qualifications of members of Congress may be initiated.

Vera v. Avelino, G.R. L-543, Aug. 31, 1946



Election contests relate only to statutory contests in which the contestant seeks not only to **oust the intruder**, but also to have **himself inducted** into the office.

Guerrero v. COMELEC, G.R. 137004, Jul. 26, 2000



The word “qualifications” includes **both constitutional and statutory qualifications**. Hence, the electoral tribunals can decide whether a member validly substituted a previous candidate.

Abayon v. HRET, G.R. 189466, Feb. 11, 2010



Party-list nominees are “elected members” of the House of Representatives, and so, the House of Representatives Electoral Tribunal **has jurisdiction** to hear and pass upon their qualifications.

COMELEC-HRET/SET jurisdictions

Reyes v. COMELEC, G.R. 221103, Oct. 16, 2018 ♥



The electoral tribunals have **jurisdiction** over a “member” who has:

1. A **valid proclamation**,
2. A proper **oath**, and
3. **Assumed office**.

Lacking any of those, the COMELEC retains jurisdiction.

Uy v. COMELEC, G.R. 260650, Aug. 8, 2023



Hence, the HRET has no jurisdiction over a proclaimed winner who has not yet taken a proper oath and assumed office.

Under the House rules, a “proper oath” is “an oath before the Speaker

of the House in open session.”

Independence and impartiality

Abbas v. SET, G.R. 83767, Oct. 27, 1988



The constitution intended an electoral tribunal to have **both judicial and legislative components** by giving it 3 justice-members and 6 legislator-members. Either component cannot be excluded.

Bondoc v. Pineda, G.R. 97710, Sep. 26, 1991



The tribunal was created to function as a **nonpartisan court**. Members of the HRET, as “sole judge” of Congressional election contests, are entitled to security of tenure just as members of the judiciary enjoy security of tenure. Therefore, **membership in the HRET may not be terminated except for a just cause**.

Lerias v. HRET, G.R. 97105, Oct. 15, 1991



In an election contest where what is involved is the correctness of the number of votes of each candidate, the best and most conclusive evidence are the ballots themselves. But where the ballots cannot be produced or are not available, the election returns would be the best evidence (**Ballots > ERs**).

Hence, the Supreme Court may invalidate the final vote tally determined by the electoral tribunal if that determination was done without supporting evidence (*Bernas Constitution, p. 756*).

Commission on Appointments

§18

There shall be a Commission on Appointments consisting of the President of the Senate as ex officio Chairman, twelve Senators, and twelve members of the House of Representatives, elected by each House on the basis of proportional representation from the political

parties and parties or organizations registered under the party-list system represented therein. The chairman of the Commission shall not vote, except in case of a tie. The Commission shall act on all appointments submitted to it within thirty session days of the Congress from their submission. The Commission shall rule by a majority vote of all the Members.

- The ComAppt's function is to consent to or confirm nominations or appointments submitted by the president.
- It is an administrative check on the president's appointment power.
- To avoid stalling nominations, the constitution mandated the ComAppt to act on all appointments submitted to it within 30 days (*Bernas Constitution*, p. 769).

Daza v. Singson, G.R. 86344, Dec. 21, 1989



A House may change its representation in the ComAppt to reflect at any time changes that may transpire in the political alignments of its membership. Such changes, however, must be permanent and do not include the temporary alliances or factional divisions.

Coseteng v. Mitra, G.R. 86649, July 19, 1990



To claim membership in the ComAppt, a party must gain a sufficient number of seats first. Endorsement of members from other parties is inconsequential.

Guingona v. Gonzales, G.R. 106971, Oct. 20, 1992 & Mar. 1, 1993



The specification of 12 members to constitute its membership is merely an indication of the maximum allowable under the constitution. The mandate requiring proportional representation must prevail.

As such, it is unconstitutional for a party to round up its mathematical representation to get an additional seat and fill all 12

spots. Fractional seats are disregarded (7.5 is 7, not 8) (*CCC*, p. 68).

§19

The Electoral Tribunal and the Commission on Appointments shall be constituted within thirty days after the Senate and House of Representative shall have been organized with the election of the President and the Speaker. The Commission on Appointments shall meet only while the Congress is in session, at the call of its Chairman or a majority of all its Members, to discharge such powers and functions as are herein conferred upon it.

The ComAppt meets only while Congress is in session.

- The president can still appoint during a recess (*ad interim*), but these shall be valid only until disapproved by the ComAppt or when Congress adjourns (*CCC*, p. 67, see also Const. art. VII, §16).

§20

The records and books of accounts of the Congress shall be preserved and be open to the public in accordance with law, and such books shall be audited by the Commission on Audit which shall publish annually an itemized list of amounts paid to and expenses incurred for each Member.

§21 ★

The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in, or affected by, such inquiries shall be respected.

Requisites for an inquiry in aid of legislation ♥

1. It must be in aid of legislation,
2. It must be in accordance with duly published rules of procedure, and
3. The rights of persons appearing in or affected by the inquiry must be respected (CCC, pp. 69-70).

Nature of inquiry

NORECO II v. Sangguniang Panlungsod, G.R. 72492, Nov. 5, 1987 ⚡👤

The exercise by the legislature of the contempt power is a matter of self-preservation. The contempt power of the legislature is *sui generis*.

The contempt power attaches not to the discharge of legislative functions per se but to the character of the legislature as one of the three independent and coordinate branches of government (Hence, *local legislative bodies do not have contempt power*).

Arnault v. Nazareno, G.R. L-3820, Jul. 18, 1950 ♥ 💰👤

Congress has the power to require a witness to answer any question pertinent to that inquiry, subject to his constitutional right against self-incrimination.

- The materiality of the question must be determined by its direct relation to the subject of the inquiry and not by its indirect relation to any proposed or possible legislation.
- What is required is that the question be pertinent to the matter under inquiry.

Balag v. Senate, G.R. 234608, Jul. 3, 2018 ♥ 🍷👤

The period of imprisonment under the inherent power of contempt by the Senate during inquiries in aid of legislation should only last until the termination of the legislative inquiry.

An inquiry terminates on two instances:

1. Upon approval/disapproval of the committee report; or
2. Upon the expiration of one Congress.

Persons excluded

Senate v. Ermita, G.R. 169777, Apr. 20, 2006 🙄👤

Only the president may exempt herself in a Congressional inquiry by the mere fact that she's the president.

In re production of court records (id.) 🧑👤

Inter-departmental courtesy demands that the highest levels of each department be exempt from the compulsory processes of the other departments on matters related to the functions and duties of their office. Hence, members of the Supreme Court cannot be compelled to attend such inquiries.

Gudani v. Senga, G.R. 170165, Aug. 15, 2006 🧑👤

The president has constitutional authority to do so, by virtue of her power as commander-in-chief to prevent a member of the armed forces from testifying before a legislative inquiry.

Scope of inquiry

Bengzon v. Senate Blue Ribbon Cttee., G.R. 89914, Nov. 20, 1991 🙄👤

Persons may not be compelled to testify or produce documents in legislative inquiries if it is not in aid of legislation. To ascertain the character/nature of an inquiry, resort must be had to the speech/resolution under which an inquiry was proposed to be made.

Standard Chartered Bank v. Senate, G.R. 167173, Dec. 27, 2007

The mere filing of a criminal or an administrative complaint before a court or a quasi-judicial body should not automatically bar the conduct of legislative investigation.

Romero II v. Estrada, G.R. 174015, Apr. 2, 2009 🧑👤

The sub judice rule does not apply to inquiries in aid of legislation because it is different from judicial proceedings.

- Sub judice rule – restricts comments and disclosures pertaining to judicial proceedings to avoid prejudging the

issue, influencing the court, or obstructing the administration of justice.

Garcillano v. House of Representatives, G.R. 170338, Dec. 23, 2008



Congress cannot be allowed to continue with the conduct of a legislative inquiry without duly published rules of procedure, in clear derogation of the constitutional requirement.

The house of Congress must publish its rules of procedure at the start of every Congress.

Due process guarantee

Ong v. Senate, G.R. 257401, Mar. 28, 2023 ♥



The punishment for legislative contempt, albeit *sui generis* in character, must similarly observe the minimum requirements of due process.

Considering the broad definition of "giving false or evasive testimony," the witness must, at the very least, be given a chance to explain why his or her testimony is not false or evasive.

Standard Chartered Bank (id.)

Witnesses may invoke the right against self-incrimination, only when an incriminating question is answered. The right cannot be used to refuse to appear in the inquiry.

Executive privilege

Senate v. Ermita, G.R. 169777, Apr. 20, 2006 ♥



Executive privilege is asserted on a case-to-case basis. An implied assertion renders it invalid per se. A claim of privilege must therefore be clearly asserted. There will be no way of assessing the validity of a claim of executive privilege without stating the specific basis.

How to evade Congressional inquiries,

a.k.a. How to invoke executive privilege

1. It must be invoked by the president or the executive secretary on their behalf.
2. The claim of executive privilege must be express and specific.
3. The executive privilege must be asserted toward an information, not a person.

The following information are covered by executive privilege:

1. Military, diplomatic, and other national security matters
2. Closed-door Cabinet meetings
3. Presidential communications privilege:
 - a. The communication must relate to a quintessential and nondelegable presidential power (e.g. diplomacy)
 - b. There is operational proximity between the advisor who receives the information and the president (e.g. Cabinet members a.k.a. the president's official family)
 - c. Congress must show that it cannot obtain the information from any other source (qualified privilege) (CCC, pp. 72-73).

Senate v. Medialdea, G.R. 257608, Jul. 5, 2022



If the president questions the jurisdiction of the Congressional panel (e.g. whether it's really an inquiry in aid of legislation), the committee must first resolve the jurisdictional challenge in accordance with its own rules.

Question hour

§22

The heads of departments may upon their own initiative, with the consent of the President, or upon the request of either House, as the rules of each House shall provide, appear before and be heard by such House on any matter pertaining to their departments. Written questions shall be submitted to the President of the Senate or the Speaker of the House of Representatives at least three days before

their scheduled appearance. Interpellations shall not be limited to written questions, but may cover matters related thereto. When the security of the State or the public interest so requires and the President so states in writing, the appearance shall be conducted in executive session.

The whole tenor of the provision was permissive:

- The department heads could appear but the legislature was not obliged to entertain them.
- Likewise, Congress could request their appearance but could not oblige them, especially if the president objected (*Bernas Constitution*, p. 769).

Senate v. Ermita (id.)

The requirement to secure presidential consent limited as it is only to appearances in the question hour, is valid on its face. For under §22, the appearance of department heads in the question hour is discretionary on their part.

§21 and 22 distinguished (CCC, p. 74)

	§21	§22
Purpose	Remedial legislation	Oversight
Contempt?	Yes	No
How to evade?	Valid claim of executive privilege	Any reason

Declaration of war;

Delegation of emergency powers to president

§23 ★

1. The Congress, by a vote of two-thirds of both Houses in joint session assembled, voting separately, shall have the sole

power to declare the existence of a state of war.

2. In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Congress, such powers shall cease upon the next adjournment thereof.

¶1: Declaration of war

Requisites for Congress to declare war:

1. Assembled in a joint session
2. 2/3 vote of both Houses
3. Houses voting separately.

Distinguish:

- Power to **declare** war – **Congress**
- Power to **make** war – **President**
 - The president holds the sword of war
 - The president may make war even in the absence of a declaration of war (*Bernas Constitution*, pp. 772-773)

¶2: Emergency powers

Congress is the repository of emergency powers.

Requisites of a valid emergency power delegation to the president:

1. The delegation is by law
2. There is a war or other national emergency
3. The delegation is for a limited period only
4. The delegation is subject to restrictions imposed by Congress
5. The emergency powers must be exercised to carry out a national policy which Congress declared

The delegation terminates when:

1. Congress passes a resolution to that effect, or
2. Next adjournment of Congress (whichever is earlier) (CCC, pp. 75-76).

It's easier to revoke emergency powers than to grant them.

David v. Arroyo, G.R. 171396, May 3, 2006 ♥

1. The president can declare a state of national emergency, pursuant to her commander-in-chief powers.
 - a. National emergency – includes rebellion, economic crisis, epidemics/pandemics, typhoons, floods, or other similar catastrophe of nationwide effect.
2. The president cannot exercise emergency powers without Congressional authorization.
 - a. Only Congress can take-over or direct the operation of any privately owned public utility or business affected with public interest during times of national emergency.
 - b. In the codal below, “State” = Congress.

Const. art. XVII, §17

In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately owned public utility or business affected with public interest.

Valid exercises of executive power regarding emergencies without Congressional authorization

SANLAKAS v. Executive Secretary, G.R. 159085, Feb. 3, 2004

The declaration of a state of emergency and calling out the armed forces can be done by the president without Congressional authorization, pursuant to her chief executive and commander-in-chief powers.

Ampatuan v. Puno, G.R. 190259, Jun. 7, 2011

The declaration of a state of emergency and calling out of the armed forces to prevent or suppress lawless violence in certain areas is a power that the constitution directly vests in the president.

Origination clause

§24

All appropriation, revenue or tariff bills, bills authorizing the increase of the public debt, bills of local application, and private bills, shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments.

The following **must originate** from the **House of Representatives**:

1. ART bills
2. Bills increasing the public debt
3. Bills of local application (e.g. creating cities or new schools)
4. Private bills (e.g. granting citizenship to Justin Brownlee 🏀)

Q: Can the Senate totally rewrite the bill?

A: Yes, as long as it's in the nature of an amendment or a substitute amendment (striking the entire text and replacing it with another version).

“The Senate may propose or concur with amendments”

Tolentino v. Sec. of Finance, G.R. 115455, Aug. 25, 1994

It is not the law—but the revenue bill—which is required by the constitution to “originate exclusively” in the House of Representatives. Hence, the Senate may propose substantial amendments or rewrite an ART bill, so long as it originated from the House.

GAA procedure

§25

1. The Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of preparation of the budget shall be **prescribed by law**.
2. No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.
3. The procedure in approving appropriations for the Congress shall strictly follow the procedure for approving appropriations for other departments and agencies.
4. A special appropriations bill shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposal therein.
5. No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to **augment** any item in the general appropriations law for their respective offices from **savings** in other items of their respective appropriations.
6. Discretionary funds appropriated for particular officials shall be disbursed only for **public purposes** to be supported by appropriate **vouchers** and subject to such **guidelines as may be prescribed by law**.
7. If, by the end of any fiscal year, the Congress shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be **deemed reenacted** and shall remain in force and effect until the general appropriations bill is passed by the Congress.

Appropriation – To allot, assign, set apart, or apply to a particular use or purpose a specific amount of government funds or money (*Belgica, id*)

Rule 1: Form of the NEP

- The prohibition on Congress's ability to increase the appropriations recommended by the president is directory "may not" – in practice, Congress always often does.
- On the part of the president, he must submit the NEP to Congress 30 days after his SONA (see Const. art. VII, §22)

Rule 2: No riders on the GAA

Rider – A provision that is not germane to the subject matter of a bill.

Doctrine of inappropriate provisions – Riders in appropriations bills can be vetoed by the president, even though they aren't items (which can be line-item vetoed).

Garcia v. Mata, G.R. L-33713, Jul. 30, 1975

A sufficient compliance with the restrictions against riders is if the title expresses the general subject and all the provisions of the statute are germane to that general subject

Gonzales v. Macaraig, G.R. 87636, Nov. 19, 1990

The president may veto provisions that are not related to any particular or distinctive appropriations (**doctrine of inappropriate provisions**). Hence, such inappropriate provisions are treated as "items" that fall under the president's line-item veto.

Meh? But those vetoed provisions are safeguards placed by Congress to restrict how the president executes the GAA. It's really Congress vs. president.

Rule 3: No special rules for Congress

Congress may not adopt a different procedure for approving its own budget. All agencies must go through the same process (*Bernas Constitution, p. 778*). *Yes, including you, Madam Vice President.*

Rule 4: Special appropriations bills and special purpose funds

A special appropriations bill must comply with the following **requisites**:

1. The purpose must be **specified**
2. The purpose must be supported by either:
 - a. **Funds available** certified by the treasurer; or
 - b. **Revenue-generating** provision (CCC, p. 80).

Hence, pork barrel laws, lump-sum appropriations, and post-enactment identification authority budgeting systems are unconstitutional as they don't specify the purpose for the appropriations (CCC, p. 80-81, citing *Belgica*).

⚠️ *But the pork barrel scheme was not struck down for violating this provision. Dictum?*

Rule 5: Fund transfers

Only the following can transfer funds within their office:

1. President (executive)
2. Senate president (Senate)
3. Speaker (House of Representatives)
4. Chief justice (judiciary)
5. Heads of constitutional commissions (within CSC, COA, and COMELEC)

Provided that:

1. There is a **law** allowing the transfer
2. The transfer will **augment** an existing item
3. The transfer is from the office's **savings** in an existing item

Disbursement Acceleration Program

Araullo v. Aquino, G.R. 209287, Jul. 1, 2014 & Feb. 3, 2015 ♥

The following acts are **unconstitutional** for violating §25(5):

1. **Declaring savings** prior to the end of the fiscal year and without complying with the statutory definition of savings in the GAA;
2. **Cross-border** transfers of savings of the executive to augment the appropriations of offices outside the executive

- branch; and
3. Augmentation of a **nonexistent item** in the GAA.

Savings

Savings – Refer to portions or balances of any released appropriations in the GAA which have not been obligated as a result of any of the following:

1. **Completion, final discontinuance, or abandonment** of a PAP for which the appropriation is authorized; or
2. Implementation of measures resulting in improved systems and efficiencies and thus enabled the agency to meet and deliver the required or planned targets, programs, and services approved in the GAA at a lesser cost (**cost-savings**) (§77, RA 11975 or the 2024 GAA).

Sanchez v. COA, G.R. 127545, Apr. 23, 2008



“Actual savings” is a condition sine qua non to a valid transfer of funds from one government agency to another.

“Actual” denotes that something is real or substantial, or exists presently in fact. Savings may not and **should not be presumed from the mere transfer of funds**.

Demetria v. Alba, G.R. 71977, Feb. 27, 1987



A law authorizing the president to transfer funds without the need for actual savings or an existing item is unconstitutional.

Rule 6: Discretionary funds

Requisites to use discretionary funds:

1. Only be used for **public purposes**;
2. Supported by **DV**; and
3. Subject to **guidelines** prescribed by law (CCC, p. 82).

Rule 7: Reenactment of GAA

The previous year's GAA is deemed reenacted if the current year's GAA has not been enacted yet. The previous GAA remains effective until a new GAA is enacted.

Rationale: To prevent government shutdowns (*Bernas Constitution*, p. 778).




Rider prohibition;




Procedure for passage of bills

§26

1. Every bill passed by the Congress shall embrace **only one subject** which shall be expressed in the title thereof.
2. No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, **except when the President certifies to the necessity of its immediate enactment** to meet a public calamity or emergency. Upon the last reading of the bill, no amendment thereto shall be allowed and the vote thereon shall be taken immediately thereafter, and the yeas and nays entered in the Journal.

¶1: Riders

Case	Long title	Assailed provision
Cordero v. Cabatuando 	An act amending ... the Agricultural Tenancy Act of the Philippines	Creating a tenancy mediation program, and providing tenants a counsel
Tio v. Videogram Regulatory Board 	An act creating the Videogram Regulatory Board	Tax on sale, lease, or disposition of videograms
PJA v. Prado 	An act creating the Philippine Postal Corporation, defining	Removal of judges' franking privileges

	its powers, functions and responsibilities, providing for the regulation of the industry and for other purposes connected therewith	Void: <i>But on equal protection grounds.</i>
Fariñas v. Executive Secretary 	An act to enhance the holding of free, orderly, honest, peaceful and credible elections through fair election practices	Repeal of the provision that an elective official is deemed <i>ipso facto</i> resigned upon filing of the COC
DOTr v. Phil. Petroleum 	An act providing for the implementation of the provisions of the 1992 International Convention on Civil Liability for Oil Pollution Damage and the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, providing penalties for violations thereof, and for other purposes	Creation of an oil pollution management fund
St. Wealth Ltd. v. BIR 	An act providing for COVID-19 response and recovery interventions and providing mechanisms to accelerate the recovery and bolster the resiliency of the Philippine economy,	Creation of a 5% franchise tax on POGO, and continued collection thereof notwithstanding the law's expiration Void: <i>The imposition of new taxes, camouflaged</i>

	providing funds therefor, and for other purposes	<i>as part of a long list of existing taxes, cannot be contemplated as an integral part of a temporary COVID-19 relief measure.</i>
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It is sufficient if the title be comprehensive enough reasonably to include the general object which a statute seeks to effect, without expressing each and every end and means necessary or convenient for the accomplishment of that object (*Fariñas, id.*).

¶2: Passage of bills

The rules

1. It must be a bill
2. Three readings, in 3 separate days
3. Printed copies must be circulated 3 days before final passage
4. Recorded vote required on 3rd reading
5. No more amendments allowed after 3rd reading

(2) and (3) are waived when the president certifies the bill as “urgent.”

Tolentino (*id.*)

The phrase “except when the President certifies to the necessity of its immediate enactment, etc.” qualifies the three reading on three separate days rule, and the printed copy requirement.

Bicameral conference committee

ABAKADA v. Ermita, G.R. 168056, Sep. 1, 2005

A bicameral conference committee is mandated to settle differences between the disagreeing provisions in the House and Senate bills. It may:

1. Adopt the specific provisions of either bill
2. Decide that neither provisions in the either bill will be

adopted

3. Try to arrive at a compromise between the disagreeing provisions.

Owing to Congress’s power to make its own rules, the conference committee report is exempt from the three-reading requirement and no-amendment requirement after third reading.

Joint resolution

Ang Nars v. Executive Secretary, G.R. 215746, Oct. 8, 2019

A joint resolution cannot become a law nor amend a prior law because the constitution says only a “bill” can become a law. This, regardless if the joint resolution conformed to the constitutional requirement in passing a bill.

But see Justice Caguioa’s dissent: A joint resolution is considered to have become a law when: (1) it was approved by both houses of Congress after 3 readings; (2) signed by the president; and (3) published in the OG/newspaper. Isn’t it just a matter of nomenclature?

Presidential action on bills

§27

1. Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same he shall sign it; otherwise, he shall veto it and return to the House where it originated, which shall enter the objections at large in its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the Members of such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. In all such cases, the votes of each House shall be determined by yeas and nays, and entered in its journal. The President shall communicate his veto of any bill to the House where it originated within thirty days after the

date of receipt thereof; otherwise, it shall become a law as if he had signed it.

- The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bills, but the veto shall not affect the item or items to which he does not object.

President's action	Result
Signs 🖋️	Bill becomes law ✅
Nothing 🙄	Bill becomes law after 30 days ⏰✅
Vetoes 🙅	Does not become law ❌

Q: Say you're a lawyer for the Senate. The president vetoed a bill that the Senate feels strongly about. It's a bill that slashes the intelligence fund for his minions. What will you advise the senate president?

A: The procedure in §27(1) must be followed if the Senate wants to pass the bill, the president's objection notwithstanding.

- Since this is an ART bill, the House goes first. It will receive the president's veto message, and vote on the override.
- If 2/3 of the representatives agree (nominal voting), they shall send the veto message to the Senate.
- The Senate shall receive the veto message and proceed to override the veto.
- If 2/3 of all the senators vote for the override (nominal voting), then the bill automatically becomes law.

General rule: Veto is all or nothing.

Exception: ART bills

- The president can veto particular "items" in an ART bill and approve the rest (CCC, p. 88).

What are items

Gonzales (id.)

An **item** is the particulars, the details, the distinct and severable parts of the bill. It is an **indivisible sum of money** dedicated to a stated purpose.

CIR v. CTA, G.R. L-47421, May 14, 1990

An **item in a revenue bill** is the **subject of the tax and the tax rate.**

Issues on the line-item veto

Belgica (id.)

For the President to exercise his item-veto power, it necessarily follows that there exists a proper "item" which may be the object of the veto.

Hence, the lump-sum/post-enactment legislative identification budgeting system fosters the creation of a "budget within a budget" which subverts the prescribed procedure of presentment and consequently impairs the president's power of item veto.

Philconsa v. Enriquez, G.R. 113105, Aug. 19, 1994

Some construe the president's exercise of a line-item veto as "impoundment." However, the Supreme Court has not categorically ruled if the president has indeed impounded funds and its constitutionality.

Impoundment – refusal by the president, for whatever reason, to spend funds made available by Congress.

No appropriations authorized under the GAA shall be impounded, unless in accordance with the rules and regulations issued by the DBM and when there is **unmanageable National Government budget deficit** (§71, RA 11975 or the 2024 GAA).

Taxation

§28

1. The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation.
2. The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.
3. Charitable institutions, churches and personages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.
4. No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of the Congress.

Taxation – Enforced proportional contribution, imposed by the state in its sovereign capacity, to support the government.

Tax is a pecuniary burden—it has to be paid with money! (*Tax Made Less Taxing*, p. 1)

“Uniform and equitable”

City of Baguio v. De Leon, G.R. L-24756, Oct. 31, 1968



Equality and uniformity in taxation means that all taxable articles or kinds of property of the same class shall be taxed at the same rate. The taxing power has the authority to make reasonable and natural classifications for purposes of taxation.

CIR v. Lingayen Gulf, G.R. L-23771, Aug. 4, 1988



A tax is **uniform** when it operates with the same force and effect in every place where the subject of it is found. Uniformity means that

all property belonging to the same class shall be taxed alike.

Sison v. Ancheta, G.R. L-59431, Jul. 25, 1984



The rule of uniformity does not call for perfect uniformity or perfect equality, because this is hardly attainable. It suffices then that the laws operate equally and uniformly on all persons under similar circumstances.

Pepsi-Cola v. City of Butuan, G.R. L-22814, Aug. 28, 1968



Classification of the objects of taxation is allowed if (equal protection test):

1. It is based on substantial distinctions which make real differences
2. It is germane to the purpose of the law
3. It applies not only to present conditions but also to future conditions substantially identical to those of the present
4. It applies equally to all those who belong to the same class

“Evolve a progressive system of taxation”

Tinio (id.)

A tax is considered regressive when it does not consider the taxpayer's ability to pay.

All indirect taxes, such as excise tax and VAT, are undoubtedly regressive by their very nature. Such taxes eat away at the same portion of income, whether big or small.

Tolentino (id.)

The mandate to Congress is not to prescribe, but to evolve, a progressive tax system. The constitutional provision has been interpreted to mean simply that direct taxes are to be preferred and as much as possible, indirect taxes should be minimized.

Tax exemption

Real properties used actually, directly, and exclusively (ADE) for charitable, educational and religious purposes are tax-exempt.

Exclusively – possessed and enjoyed to the exclusion of others (CCC, p. 92).

⚠️ *This must not be confused with the tax-exemption of nonprofit, nonstock educational institution granted in Art. XIV, §4(3).*

Art. XIV, §4(3)

All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties ...

This (4(3)) tax-exemption does not apply to charitable and religious institutions—only nonprofit, nonstock educational institutions.

	Art. VI, §28(3)	Art. XIV, §4(3)
Covered	Real property	Revenue and assets
Who is exempt?	Charitable, religious, and educational institutions	Non-stock, non-profit educational institutions
Who collects?	Local government	BIR
What must you look for?	How the building is used (Is it ADE for the exempt purpose?)	How the income is spent (Is it ADE for educational purposes?)

Lladoc v. CIR, G.R. L-19201, Jun. 16, 1965

The exemption from taxation in §28(3) (1935 Phil. Const., art. VI, §22(3)) is only from the payment of taxes assessed on such properties enumerated, as property taxes, and not excise tax like gift tax.

Lung Center v. Quezon City, G.R. 144104, Jun. 29, 2004

Those portions of its real property that are leased to private entities are not exempt from real property taxes as these are not actually, directly and exclusively used for charitable purposes.

CIR v. DLSU, G.R. 196596, Nov. 9, 2016 ♥

When a non-stock, non-profit educational institution proves that it uses its revenues actually, directly, and exclusively for educational purposes, it shall be exempted from income tax, VAT, and local business tax (§4(3)). When it also shows that it uses its assets in the form of real property for educational purposes, it shall be exempted from real property tax (§28(3)).

Q: Let's say La Salle decides to put up a Jollibee in the ground floor of whatever building it has. Can the Manila City government tell them to pay real property tax?

A: Yes. Portions of the university's real property not ADE used for educational purposes are not exempt from real property taxes.

Q: But if La Salle decides to use the income they got from Jollibee to fund scholarships, can the BIR ask them to pay up income tax?

A: No. The exception under article whatever [Art. XIV, §4(3)] applies because the income from Jollibee is used ADE for educational purposes.

Delegation of taxation power to the president

Congress may **delegate** taxation powers to the president, so long as the following **requisites** are present:

1. It is made by law
2. The law must specify limits
3. Within the framework of the national development program

Tax exemptions need Congressional approval

John Hay People's Alternative v. Lim, G.R. 119775, Oct. 24, 2003

It is the legislature, unless limited by a provision of the state constitution, that has full power to exempt any person or corporation or class of property from taxation, its power to exempt being as broad as its power to tax.

Exemption from taxation should be manifest and unmistakable from the language of the law.

Appropriations**§29**

1. No money shall be paid out of the Treasury except in pursuance of an **appropriation made by law**.
2. No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, other religious teacher, or dignitary **as such**, except when such priest, preacher, minister, other religious teacher, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.
3. All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

Q: *Can a Jesuit priest working in UP as a philosophy professor be paid his salary out of government funds?*

A: Yes. The Jesuit priest is not being paid “as such” (i.e. being a priest), but rather for his services as a member of the faculty.

Special funds

Money collected on any tax levied for a special purpose must be:

1. **Treated** as a special fund; and

2. **Paid** for the special purpose.

If the purpose has been fulfilled or abandoned, the remaining funds must go back to the general funds of the government (CCC, p. 95).

Summary of the limits on the power to appropriate

1. ART bills must originate exclusively from the House.
2. Congress cannot increase the NEP funding levels.
3. No riders in the GAA.
4. No special rules for Congress's budget.
5. Special appropriation bills must specify the special purpose and must be accompanied with revenue-generation or certification of funds available.
6. Only high-ranking constitutional officials can transfer funds from savings to augment existing items.
7. Discretionary funds are for public purposes only and must be supported by DVs.
8. No government shutdowns because GAA can be reenacted.
9. No use of public funds for religious purposes.
10. The GAA must be based on the president's NEP (*Bernas Constitution*, pp. 777-778).

Coco levy fund scam**COCOFED (id.)**

The reclassification of special funds as private funds to be disbursed and/or invested for the benefit of private individuals in their private capacities, contrary to the original purpose for which the fund was created, is unconstitutional.

This produced the effect of removing the funds from the cavil of public funds which normally can be paid out only pursuant to an appropriation made by law.

§30

No law shall be passed increasing the appellate jurisdiction of the

Supreme Court as provided in this Constitution without its **advice and consent**.

First Lepanto Ceramics v. CA, G.R. 110571, Mar. 10, 1994

The Supreme Court can change the procedure and/or venue of appeals, without affecting the substantive right to appeal, pursuant to its rule-making powers in Const. art. VIII, §5.

Carpio-Morales v. CA, G.R. 217126-27, Nov. 10, 2015

The provision in the Ombudsman Act which made the Supreme Court the only court in which decisions or findings of the ombudsman can be appealed is unconstitutional as it effectively increased the court's appellate jurisdiction without its advice and consent.

Congress has the power to apportion the jurisdiction of the various courts (Art. VIII, §2), except insofar as these have been fixed by the constitution (*Bernas Constitution*, p. 815).

§31

No law granting a title of royalty or nobility shall be enacted.

Q: Why do we have *datu* or *sultan*?

A: They are not created by law. They are customs and traditions.

Initiative and referendum

§32

The Congress shall, as early as possible, provide for a system of initiative and referendum, and the exceptions therefrom, whereby the people can directly propose and enact laws or approve or reject any act or law or part thereof passed by the Congress or local legislative body after the registration of a petition therefor signed by

at least ten *per centum* of the total number of registered voters, of which every legislative district must be represented by at least three *per centum* of the registered voters thereof.

The law on initiative and referendum is RA 6735 (The Initiative and Referendum Act).

- **Recall §1** – The legislative power shall be vested in a Congress ... *except to the extent reserved to the people by the provision on initiative and referendum.*

Marmento v. COMELEC, G.R. 213953, Sep. 26, 2017

1. COMELEC cannot defeat the purpose of initiative and referendum by saying it has no funds for such.
 - a. It has the mandate to enforce and administer the laws on initiative and referendum.
2. The COMELEC has the power to determine whether the propositions in an initiative petition are within the powers of a concerned sanggunian to enact.
 - a. Hence, if the proposition is beyond the powers of the sanggunian, it cannot be allowed.

Lambino v. COMELEC, G.R. 174299, Oct. 25, 2006 ♥

A **people's initiative** to change the constitution applies only to an amendment of the constitution and not to its revision.

- *Amendment* – a change that adds, reduces, or deletes without altering the basic principle involved
- *Revision* – a change that alters a basic principle in the constitution (e.g. separation of powers, checks-and-balances, or when the change alters the substantial entirety of the constitution)

Art. XVII, §2

Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at

least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter.

The Congress shall provide for the implementation of the exercise of this right.

In determining whether a proposition is an amendment or a revision, the following tests are used:

1. *Quantitative test* – whether the proposed change is so extensive in its provisions as to change directly the substantial entirety of the constitution by the deletion or alteration of numerous existing provisions (number of provisions)
2. *Qualitative test* – whether the change will accomplish such far reaching changes in the nature of our basic governmental plan as to amount to a revision

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