

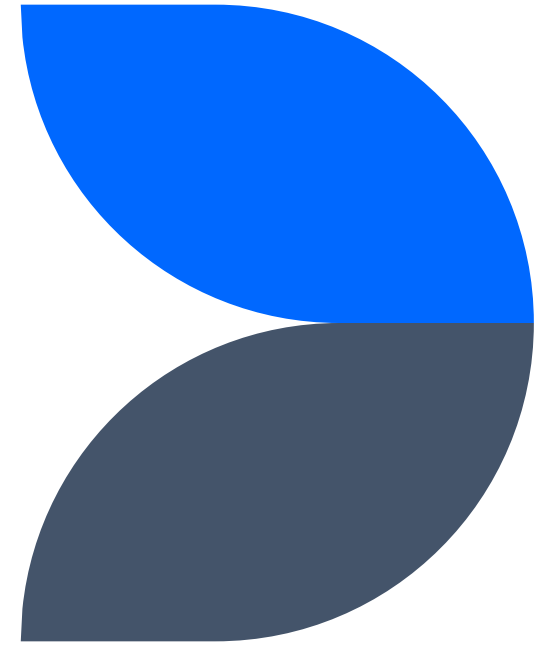


The Constitution and the Bill of Rights

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The Philippine Government



The Philippine Government

- Three (3) Branches of the National Government
 - Executive – *execute or enforce* laws
 - Legislative – *pass or enact* laws
 - Judiciary – *apply or interpret* laws
- They are co-equal.

The Philippine Government (con't)

Executive

- President of the Philippines
- Department Secretaries
- Heads of Agencies and Bureaus

Legislative

- Senate – Senate President
- House of Representatives – Speaker of the House
- Senators and Congressmen

Judiciary

- Chief Justice of the Supreme Court
- Associate Justices of the Supreme Court
- Justices of the Court of Appeals, Sandiganbayan, Court of Tax Appeals
- Judges of Regional Trial Courts and Municipal Trial Courts

Incumbent Justices of the Supreme Court



**Chief Justice
Alexander G.
Gesmundo**



**Justice
Marvic M.V.F.
Leonen**



**Justice Alfredo
Benjamin S.
Caguioa**



**Justice Ramon
Paul L. Hernando**



**Justice
Amy C. Lazaro-
Javier**



**Justice
Henri Jean Paul B.
Inting**



**Justice
Rodil V. Zalameda**



**Justice
Mario V. Lopez**



**Justice
Samuel H.
Gaerlan**



**Justice
Ricardo R.
Rosario**



**Justice
Jhosep Y.
Lopez**



**Justice
Japar B.
Dimaampao**



**Justice Jose
Midas P.
Marquez**



**Justice
Antonio T. Kho,
Jr.**



**Justice Maria
Filomena D.
Singh**

Power of the Supreme Court to apply and interpret laws

- 1987 CONSTITUTION, Article VII, Section 1. *The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law. xxx Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable.*
- The first and fundamental duty of the Supreme Court is to apply the law. When the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. However, when the law is ambiguous or of doubtful meaning, the Supreme Court may interpret or construe its true intent. (*Rizal Commercial Banking Corp. v. Intermediate Appellate Court*, G.R. No. 74851 (Resolution), (09 December 1999))

Supreme Court cases

- NEW CIVIL CODE, Article 8. *Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.*
- Decisions of the Supreme Court, although in themselves not laws, are nevertheless evidence of what the laws mean. The interpretation upon a law by the Supreme Court constitutes, in a way, a part of the law as of the date that law was originally passed, since this Court's construction merely establishes the contemporaneous legislative intent that the law thus construed intends to effectuate. The settled rule supported by numerous authorities is a restatement of the legal maxim '*legis interpretatio legis vim obtinet*' — the interpretation placed upon the written law by a competent court has the force of law. (*Co v. Court of Appeals*, G.R. No. 100776, (28 October 1993))
- The collective body of the cases decided by the Supreme Court is called *Jurisprudence*.

Illustrative case – Republic v. Manalo, 2018

- FAMILY CODE, Article 26. *Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law.*
- Marelyn Tanedo Manalo. Marelyn filed a petition for cancellation of entry of marriage in the Civil Registry of San Juan, Metro Manila, by virtue of a judgment of divorce rendered by a Japanese court. Marelyn previously married in the Philippines to a Japanese national named Yoshino Minoru as shown by their Marriage Contract. A case for divorce was filed by Marelyn in Japan and after due proceedings, a divorce decree was rendered by the Japanese Court.

Illustrative case – Republic v. Manalo, 2018 (con't)

- The Regional Trial Court (RTC) denied Marelyn's petition for lack of merit. In ruling that the divorce obtained by Manalo in Japan should not be recognized, it opined that, based on Article 15 of the New Civil Code, the Philippine law "does not afford Filipinos the right to file for a divorce, whether they are in the country or living abroad, if they are married to Filipinos or to foreigners, or if they celebrated their marriage in the Philippines or in another country" and that unless Filipinos "are naturalized as citizens of another country, Philippine laws shall have control over issues related to Filipinos' family rights and duties, together with the determination of their condition and legal capacity to enter into contracts and civil relations, including marriages."
- On appeal, the Court of Appeals (CA) overturned the RTC decision. It held that Article 26 of the Family Code of the Philippines is applicable even if it was Marelyn who filed for divorce against her Japanese husband because the decree they obtained makes the latter no longer married to the former, capacitating him to remarry. The meaning of the law should be based on the intent of the lawmakers and in view of the legislative intent behind Article 26, it would be the height of injustice to consider Marelyn as still married to the Japanese national, who, in turn, is no longer married to her.

Illustrative case – Republic v. Manalo, 2018 (con't)

- NEW CIVIL CODE, ARTICLE 15. Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad.

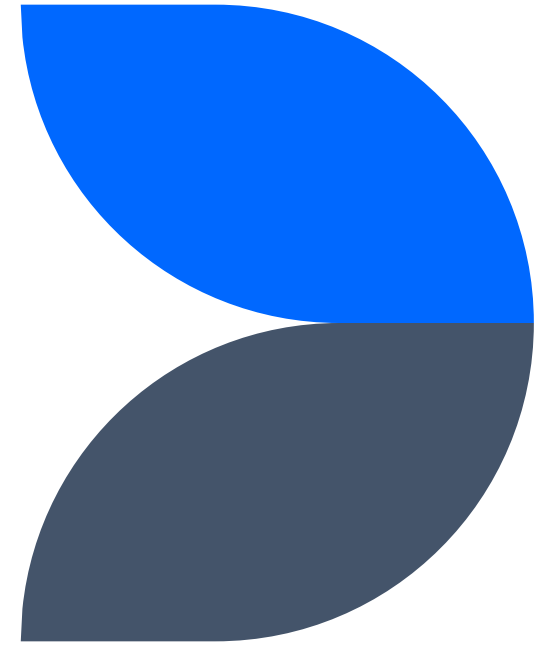
Illustrative case – Republic v. Manalo, 2018 (con't)

- Issue: Whether, under Article 26 of the Family Code, a Filipino citizen has the capacity to remarry under Philippine law after initiating a divorce proceeding abroad and obtaining a favorable judgment against his or her alien spouse who is capacitated to remarry.
- Ruling: **YES.** Paragraph 2 of Article 26 speaks of "*a divorce x x x validly obtained abroad by the alien spouse capacitating him or her to remarry.*" Based on a clear and plain reading of the provision, it only requires that there be a divorce validly obtained abroad. The letter of the law does not demand that the alien spouse should be the one who initiated the proceeding wherein the divorce decree was granted. It does not distinguish whether the Filipino spouse is the petitioner or the respondent in the foreign divorce proceeding. The Court is bound by the words of the statute; neither can We put words in the mouths of the lawmakers. The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or from the words of a statute there should be no departure.

Illustrative case – Republic v. Manalo, 2018 (con't)

- Ruling: To reiterate, the purpose of Paragraph 2 of Article 26 is to avoid the absurd situation where the Filipino spouse remains married to the alien spouse who, after a foreign divorce decree that is effective in the country where it was rendered, is no longer married to the Filipino spouse. The provision is a corrective measure to address an anomaly where the Filipino spouse is tied to the marriage while the foreign spouse is free to marry under the laws of his or her country. Whether the Filipino spouse initiated the foreign divorce proceeding or not, a favorable decree dissolving the marriage bond and capacitating his or her alien spouse to remarry will have the same result: the Filipino spouse will effectively be without a husband or wife. A Filipino who initiated a foreign divorce proceeding is in the same place and in like circumstance as a Filipino who is at the receiving end of an alien initiated proceeding. Therefore, the subject provision should not make a distinction. In both instance, it is extended as a means to recognize the residual effect of the foreign divorce decree on Filipinos whose marital ties to their alien spouses are severed by operation of the latter's national law. (*Republic v. Manalo*, G.R. No. 221029, (24 April 2018))

The Constitution



Brief History

- **Malolos Constitution** (first Republican constitution in Asia) – 1899 to 1901
- **Philippine Organic Act of 1902** and **Philippine Autonomy Act of 1916** (served as the Philippines' constitutions during the American Occupation) – 1902 - 1935
- **1935 Constitution** (pursuant to the Philippine Independence Act of 1934) – 1935 to 1943
- **1943 Constitution** (Second Republic under former Pres. Jose P. Laurel, used during World War II during the Japanese Occupation) – 1943 to 1945
- **1935 Constitution** (reinstated in 1945 and remained effective until the declaration of Martial Law by the dictator, former Pres. Ferdinand Marcos, Sr.) – 1945 to September 23, 1972

Brief History (con't.)

- **1973 Constitution**

- Before President Marcos declared Martial Law, Congress was padlocked, and legislative authority was vested in Marcos, who governed by decree. A Constitutional Convention was already deliberating on amending the 1935 Constitution and submitted its draft to Marcos on December 1, 1972. Marcos called for its ratification in January 1973 but, anticipating rejection, issued Presidential Decree No. 86, s. 1972, replacing secret ballots with *viva voce* votes through citizens' assemblies. He declared the constitution ratified and effective on January 17, 1973. Despite opposition, including Chief Justice Roberto V. Concepcion's dissent in the case of *Javellana v. Executive Secretary* exposing fraudulent ratification, the Supreme Court upheld the 1973 Constitution's validity.

Brief History (con't.)

- **1986 Freedom Constitution**

- When democracy was restored in 1986, President Corazon C. Aquino issued Proclamation No. 3, suspending parts of the 1973 Constitution and implementing a transitory constitution in its place.

- **1987 Constitution**

- A month later, President Aquino issued Proclamation No. 9, s. 1986, creating a Constitutional Commission to draft a new charter to replace the 1973 Constitution. The commission completed its work on October 16, 1986. A national plebiscite held on February 2, 1987, ratified the new constitution. On February 11, 1987, through Proclamation No. 58, President Aquino announced the official results and ratification of the draft constitution. The 1987 Constitution took full effect that day, with the President, civilian officials, and Armed Forces members swearing allegiance to it.

1987 Constitution

- That body of rules and maxims in accordance with which the powers of sovereignty are habitually exercised.
- The written instrument enacted by direct action of the people by which the fundamental powers of the government are established, limited, and defined, and by which those powers are distributed among the several departments for their safe and useful exercise for the benefit of the body politic.

Characteristics of the 1987 Constitution

- Written
- Rigid
- Evolving

Essential Parts of the 1987 Constitution

- **Constitution of Liberty** – provides for the civil and political rights of citizens and the limitations on the powers of government to secure those rights (Article III).
- **Constitution of Government** – provides for the organization of government and enumerates its powers (Articles VI, VII, and VIII).
- **Constitution of Sovereignty** – provides for the manner of amending or revising the fundamental law (Article XVII).

Doctrine of Constitutional Supremacy

- New Civil Code, Article 7. *When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern.*
- Under the Doctrine of Constitutional Supremacy, if a law or contract violates any norm of the Constitution, that law or contract, whether promulgated by the legislative or by the executive branch, or entered into by private persons for private purposes is null and void and without any force and effect. Thus, since the Constitution is the fundamental, paramount and supreme law of the nation, it is deemed written in every statute and contract. (*Manila Prince Hotel v. Government Service Insurance System*, G.R. No. 122156, (03 February 1997))

Illustrative case - SOCIAL JUSTICE SOCIETY V. DANGEROUS DRUGS BOARD, 2008

- Section 36 of Republic Act No. (RA) 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, requires mandatory drug testing of candidates for public office, to wit:
 - *SEC. 36. Authorized Drug Testing. The following shall be subjected to undergo drug testing:*
 - *(g) All candidates for public office ...both in the national or local government shall undergo a mandatory drug test.*
- Aquilino “Koko” Q. Pimentel, Jr., a senator of the Republic and a candidate for re-election in the May 10, 2004 elections, filed a Petition for Certiorari and Prohibition under Rule 65. In it, he seeks to nullify Sec. 36 (g) of RA 9165 for being unconstitutional in that they impose a qualification for candidates for senators in addition to those already provided for in the 1987 Constitution.

Illustrative case - SOCIAL JUSTICE SOCIETY V. DANGEROUS DRUGS BOARD, 2008 (con't)

- Pimentel invokes as legal basis for his petition Sec. 3, Article VI of the 1987 Constitution, which states:
 - SEC. 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of the Philippines for not less than two years immediately preceding the day of the election.
- According to Pimentel, the Constitution only prescribes a maximum of five (5) qualifications for one to be a candidate for, elected to, and be a member of the Senate. He says that both the Congress and COMELEC, by requiring, via RA 9165, a senatorial aspirant, among other candidates, to undergo a mandatory drug test, create an additional qualification that all candidates for senator must first be certified as drug free. He adds that there is no provision in the Constitution authorizing the Congress or COMELEC to expand the qualification requirements of candidates for senator.

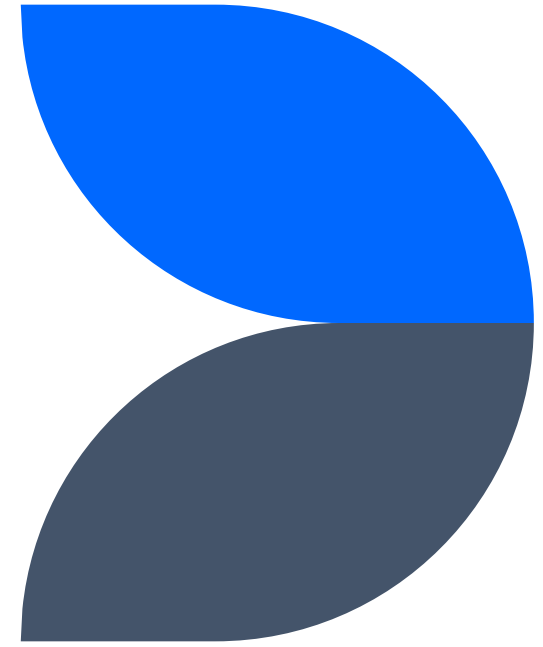
Illustrative case - SOCIAL JUSTICE SOCIETY V. DANGEROUS DRUGS BOARD, 2008 (con't)

- Issue: Whether Section 36(g) of RA 9165 is unconstitutional.
- Ruling: YES. Pimentel's contention is well-taken. Accordingly, Sec. 36 (g) of RA 9165 should be, as it is hereby declared as, unconstitutional. It is basic that if a law or an administrative rule violates any norm of the Constitution, that issuance is null and void and has no effect. The Constitution is the basic law to which all laws must conform; no act shall be valid if it conflicts with the Constitution. In the discharge of their defined functions, the three departments of government have no choice but to yield obedience to the commands of the Constitution. Whatever limits it imposes must be observed.
- Thus, legislative power remains limited in the sense that it is subject to substantive and constitutional limitations which circumscribe both the exercise of the power itself and the allowable subjects of legislation. The substantive constitutional limitations are chiefly found in the Bill of Rights and other provisions, such as Sec. 3, Art. VI of the Constitution prescribing the qualifications of candidates for senators.

Illustrative case - SOCIAL JUSTICE SOCIETY V. DANGEROUS DRUGS BOARD, 2008 (con't)

- In the same vein, the COMELEC cannot, in the guise of enforcing and administering election laws or promulgating rules and regulations to implement Sec. 36 (g), validly impose qualifications on candidates for senator in addition to what the Constitution prescribes. If Congress cannot require a candidate for senator to meet such additional qualification, the COMELEC, to be sure, is also without such power. The right of a citizen in the democratic process of election should not be defeated by unwarranted impositions of requirement not otherwise specified in the Constitution. (*Social Justice Society v. Dangerous Drugs Board*, G.R. Nos. 157870, 158633 & 161658, (03 November 2008))

The Bill of Rights



Article III of the 1987 Constitution

- Article III of the 1987 Constitution is the Bill of Rights. It establishes the relationship of the individual to the State and defines the rights of the individual by limiting the lawful powers of the State.
- **Can only be invoked against the State (government).**
- The Bill of Rights defines the fundamental rights and principles of state policy that safeguard human rights and freedoms, including the right to life and liberty, protection from unjust arrest and detention, the prohibition of forced labor, and the freedoms of speech, religion, assembly, and association.
- We will focus on the following: Due Process and Equal Protection, Searches and Seizures, Freedom of Expression, Freedom of Religion.
- We will also discuss National Territory, including the issue on the West Philippine Sea.



Thank you and study well