

**Proposed Revision of the  
1987 PHILIPPINE CONSTITUTION**

**MAIN FEATURES OF WORKING DRAFT:**

- 1) The presidential form is maintained, and the executive branch of government remains separate from the legislative branch (Congress).**
- 2) As it is at present, the President and the Vice President will be elected nationally for a term of six years. The President cannot be reelected.**
- 3) The qualifications required of a candidate for the position of President or Vice President shall now include a tertiary educational degree and public service experience of at least one full term as Governor of a province or as a member of Congress, or at least three years as a senior official (Bureau/Agency head or higher) in the executive branch of government.**
- 4) The existing two chambers of Congress are fused into a single chamber. Congress will be made up of Regional Representatives elected by region and District Representatives elected by legislative district. There will be two Regional Representative per region and one District Representative per legislative district (set at a ratio of 1 for every 250,000 population, no limit on number).**
- 5) The qualifications required of a candidate for the position of member of Congress shall now include a tertiary educational degree.**
- 6) The Speaker and Deputy Speaker of Congress and the Chairmen of all standing Committees of Congress will be chosen only from the Regional Representatives.**
- 7) The terms of the members of Congress shall be three years. There shall be no term limits for the members of Congress.**
- 8) Elective office, except that of the President and Vice President, will be open to all citizens (not just natural-born ones).**
- 9) The present Supreme Court will be broken up into two: a new Constitutional Court (7 members) and a Supreme Court (9 members). The Constitutional Court will have jurisdiction over constitutional issues, conflicts between government units, and impeachment cases against elected officials. The Supreme Court will remain the highest court for resolving private legal issues. Both Courts will sit only *en banc*.**

- 10) The administrative supervision over the lower courts that is now being performed by the Supreme Court will be transferred to the Judicial and Bar Council which will be reconstituted as a new Judicial Commission. This is done to free the Supreme Court and allow it to concentrate on its adjudication functions.**
- 11) The Commission on Human Rights is reconstituted with additional powers as a new Constitutional Commission called the Rights Enforcement Commission.**
- 12) The Office of the Ombudsman is reconstituted with additional powers as a new Constitutional Commission called the Corruption Commission.**
- 13) The power of the President to appoint officers in the Armed Forces is limited to the positions of Chief of Staff and the Major Service Commanders.**
- 14) Additional restrictions are placed on appropriating and disbursing discretionary funds.**
- 15) The fundamental rights of citizens are strengthened.**
- 16) The old Regalian doctrine under which the State owns natural resources is replaced with a doctrine of State stewardship.**
- 17) Free enterprise, open market competition, and private initiative are enshrined as principles of national economic policy.**
- 18) All citizenship restrictions for the ownership of alienable land, the exploitation of natural resources, the operation of public utilities, the ownership of mass media, advertising companies, and educational institutions, and the practice of professions are removed.**
- 19) The unitary (meaning, not federal) structure of the Republic is retained, but local autonomy is enhanced.**
- 20) There will be additional modes of removing public officials: by judicial impeachment through a case filed in the Constitutional Court and through recall elections upon petition by 12% of voters who voted in the last general election in the subject area (the whole country in the case of the President).**

## **Proposed Revision of the 1987 PHILIPPINE CONSTITUTION**

### **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 develop our patrimony, and secure to ourselves and our posterity the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, equality, and peace, do ordain and promulgate this Constitution.

*[Author's Note: The word "love" has been deleted from the Preamble for the reason that it has no legal meaning.]*

### **Article I: National Territory**

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

*[Author's Note: The phrase "by historic right and title" is added following the 1973 Constitution, to account for the historic title provided by such instruments as the Treaty of Paris.]*

### **Article II: Declaration of Principles**

*[Author's Note: Generally, those provisions of article II of the 1987 Constitution that were superfluous, considering the existence of other provisions of the charter, and those that were purely declarative, were deleted; the article is reworded to be mandatory and re-arranged in a more logical order; and certain sections are moved to separate articles.]*

Section 1. The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them. The State shall exist solely to serve and protect the people, and shall hold in trust the powers delegated by the people under this Constitution for the sole purpose of serving the general good.

*[Author's Note: The section merges sections 1 and 4 of article II of the 1987 Constitution. The last sentence is reworded to emphasize the delegated nature of State power.]*

Section 2. No public or private acts and norms, whether under municipal or international law, shall be valid if they contradict the Constitution, without prejudice to prior and peremptory natural norms. Its provisions shall not be amended, suspended, or otherwise modified in wording or application except as expressly stated in this Constitution.

*[Author's Note: The provision explicitly affirms the supremacy of the Constitution. See the Vienna Convention on the Law of Treaties (arts. 53, 64, 71), on peremptory norms and sovereign acts. See also the Constitution of Ireland (art. 41(1.1)).]*

Section 3. Unless they contradict the Constitution or law, the generally accepted principles of international law shall constitute sources of rights and duties, and shall be considered in the interpretation of Philippine laws and regulations. Duly approved treaties not inconsistent with the Constitution shall have binding force.

*[Author's Note: Taken from article II, section 2 of the 1987 Charter, the modification is suggested in view of the increasing breadth of international treaty and customary law, particularly in the area of economic regulation. The lack of a clear constitutional statement regarding the relative position of international and municipal (national) law has resulted in some jurisprudential confusion, and has consequently increased the perceived powers of the courts to intervene in fields such as strictly economic matters, since the judiciary is the primary interpreter of law. Note that in Tanada v. Angara, which dealt with the applicability of the GATT treaties on tariff liberalization, the Supreme Court dealt with the dispute by virtually reading away certain provisions of the Constitution on thinly disguised policy grounds. While the result was favorable to the goal of economic liberalization, the strengthened precedent of Court intervention in economic matters was not.]*

Section 4. All powers not delegated to the State under this Constitution shall be reserved to the people, and all powers delegated without clear allocation thereof shall be exercised by the State in Congress, subject to review by the Constitutional Court.

*[Author's Note: The section is added in response to the doctrine enunciated in Marcos v. Manglapus—and, hence, it explicitly states which body shall hold “residual” powers—and to help ensure that the sphere of private action is given explicit Constitutional recognition and protection.]*

Section 5. The State is mandated to directly exercise its constituent powers, in accordance with the allocation of powers in this Constitution: the defense of natural and civil rights; the administration of political rights and duties; the preservation of peace and order; the definition and punishment of crimes; the enforcement of contractual and property rights; the administration of justice; foreign relations; and national defense and security. All other powers are ministrant, and may be exercised if public need so demands.

*[Author's Note: The section seeks to clearly define the line between constituent and ministrant functions, in contradistinction to the jurisprudential blurring of their differences (see Bacani v. Nacoco). This is of considerable importance in applying State immunity and in demarcating the differences between first-generation and second-generation rights, among others.]*

Section 6. The autonomous welfare and development, moral and material, of individuals, families, and social groups constitute the general good. The State shall recognize the primacy of private initiative in promoting it, and activity and the organization of the State shall be strictly limited to that directly necessary to support or supplement private action.

Section 7. The waging of war shall not be an instrument of national policy. The Philippines shall adhere to the policy of peace and amity with all nations.

*[Author's Note: The provision is taken from article 2(4) of the United Nations Charter and article III, sec. 2 of the 1987 Constitution, which is in turn derived from the Pact of Paris.]*

Section 8. The State shall pursue an independent foreign policy, in which the paramount considerations shall be national sovereignty, national interest, and the right to self-determination.

Section 9. The separation of Church and State shall be inviolable, and no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

Section 10. The State shall protect the dignity of every human person and guarantee full respect for human rights. These shall not be infringed except in a just manner and to a clearly delimited extent directly necessary to achieve a compelling public purpose.

*[Author's Note: The section expressly enacts the police power requirements and strengthens them by explicitly precluding vague and overbroad infringements of rights (see Ople v. Torres), and by requiring a compelling public purpose, as opposed to the old, more lenient test of merely public purpose.]*

Section 11. The State shall promote a just and dynamic social order that will secure the general good and free the people from poverty. To this end, the State shall develop a prosperous national economy by defending equality of opportunity and freedom of private initiative. The State shall organize and manage the national economy according to principles consistent with free enterprise and open market competition.

*[Author's Note: The proposed section is intended to counterbalance the dominant interpretation of Constitutional social policy as promoting a statist socio-economic system, by emphasizing the need for wealth creation through private initiative and the elimination of barriers to social mobility. Note that this both affirms the end-goals of social justice and human welfare, and emphasizes the role of economic development in the creation of a better social order.]*

### **Article III: Bill of Rights**

Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

Section 2. No human being shall be denied recognition as a person under the law. The State shall protect the right of every human being to physical, mental, and moral integrity, and shall ensure that no person shall be subjected to torture or other inhuman or degrading treatment.

*[Author's Note: This new section is adapted from the Universal Declaration of Human Rights (art 5, 6), the International Convention on Civil and Political Rights (art. 7, 16), the American Convention on Human Rights (arts. 3, 5), and the European Convention on Human Rights (art. 3), and is introduced here to expand the protection against torture to situations not comprising criminal detention or punishment (which are the only areas covered by article III, secs. 12, 19 of the 1987 Charter).]*

Section 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Section 4.

1. The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.
2. Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

Section 5. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people to peaceably assemble and petition the government for redress of grievances.

Section 6. Freedom of conscience shall be absolute, and the free exercise of religion, ideology, or other belief by individuals or communities shall not be infringed, except by law to combat a grave and manifest danger to public safety or public health.

No one may be compelled by the State to make statements regarding his religion, ideology or other belief, except for statistical purposes and on conditions of anonymity, and no test of belief shall be required for the exercise of civil or political rights.

*[Author's Note: The provision is reworded in accordance with the International Convention on Civil and Political Rights (arts. 18, 19(1)). The distinction between the absolute freedom to believe and the more limited freedom to manifest belief is thus made explicit, and the non-establishment clause is moved to article II, since it pertains to a structural policy rather than an individual right. The amended provision is adapted from the Constitution of Spain (sec. 16), and is added primarily to make explicit the juridical distinction between internal adherence to a belief and its external expression, the latter being subject to regulation by law. The addition of "ideology or other belief", likewise adapted from Spain, is made in light of Torcaso v. Watkins and US v. Seeger, in which the United States Supreme Court noted that secular beliefs and ideologies that do not fall within the customary sense of 'religion', often identified with supernatural theism, may be given recognition and protection for purposes of the Constitution.]*

Section 7. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except by express provision of law, when there subsists a clear and present danger to national security, public safety, or public health.

*[Author's Note: The amendment is intended to limit permissible restrictions on this right only to those expressly stated in the Constitution. See comments under sec. 6 above. Note that the Constitution of Germany is more specific, and states that permissible exceptions shall only be cases in which an adequate basis of existence is lacking and special burdens would arise to the community, or in which the restriction is necessary to avert an imminent danger to the existence or the free democratic order of the Republic, to combat the danger of epidemics, to deal with natural disasters or particularly grave accidents, to protect young people from neglect, or to prevent crime.]*

Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law or public safety shall not be abridged.

Section 9. Private property shall not be taken for public use without just and timely compensation.

Section 10. No law impairing the obligation of contracts shall be passed.

Section 11. Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

Section 12.

1. Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
2. No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, *incommunicado*, or other similar forms of detention are prohibited.
3. Any evidence obtained in violation of this or Section 17 hereof be inadmissible for any purpose in any proceeding.
4. The law shall provide for penal and civil sanctions for violations of this section as well as compensation to the rehabilitation of victims of torture or similar practices, and their families.

*[Author's Note: The alteration is made to plug the loophole implicit in section 12(3), by which evidence obtained by torture may yet be used against a person other than the torture victim. The new provision adopts the tighter exclusionary clause contained in section 3.]*

Section 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.

Section 14.

1. No person shall be held to answer for a criminal offense without due process of law.
2. In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

Section 15. The privilege of the writ of *habeas corpus* shall not be suspended except in cases of invasion or rebellion when the public safety requires it.

Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

Section 17. No person shall be compelled to be a witness against himself.

Section 18. No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted, or as military or alternate service for the defense of the nation.

Section 19.

1. Excessive fines and penalties shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. No person shall be subjected to the any penalty greater than imprisonment beyond twelve (12) years or its equivalent punishment, except upon conviction by competent civil court for a specific act constituting a crime committed with malicious intent.
2. Capital punishment shall be imposed only for heinous crimes pursuant to final judgment by a competent civil court, and in no case for *mala prohibita* or political offenses or related common crimes. It shall not be inflicted on persons who were under eighteen years of age when the crime was committed, nor on pregnant women or in any case within eighteen months after the sentence has become final and executory.
3. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases, notwithstanding any provision to the contrary. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.
4. The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

*[Author's Note: The inserted provision in par.1 is added to prevent grave penalties from being imposed for mala prohibita, which do not require malice in their commission for conviction, and also to require that any sentence be premised on specific acts, thus preventing provisions such as section 4 of the Anti-Plunder Law that, by allowing conviction based on a pattern of acts rather than a specific criminal act, effectively diminish the burden of proof. The 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs are adapted from the International Convention on Civil and Political Rights (art. 6), to which the Philippines is a signatory, the American Convention on Human Rights (art. 4), European Convention on Human Rights (art. 2) and the Revised Penal Code (arts. 81, 83) as amended by Republic Act No. 8177.]*

Section 20. No person shall be imprisoned for debt or non-payment of a poll tax.

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by an Act of Congress, a regional law, and an ordinance, conviction or acquittal under any shall constitute a bar to another prosecution for the same act.

Section 22. No *ex post facto* law or bill of attainder shall be enacted, and no person shall be detained solely by reason of his religious, ideological, political, or other beliefs.

Section 23. No limitation in the extent or application of the rights in this article shall be permitted except insofar as this Constitution expressly allows.

A foreign national within the Philippines shall exercise the rights provided in this article to the same extent as a Philippine citizen, except insofar as they directly relate to political and economic acts limited by express provision of law.

*[Author's Note: The section is added to prevent undue restriction of the rights provided in this article whether by legislation or administrative or judicial interpretation. The first sentence constitutionalizes the inclusio unius rule insofar as the Bill of Rights is concerned; the second sentence, which is based on the Swedish Instrument of Government (chap. 2, art. 22), protects the rights of foreigners in accordance with the principle of international amity provided under article II and thus seeks to buttress investor confidence in the protection provided by Philippine laws.]*

Section 24. The rights under this article shall be enforceable against the State, its organs, and its officers, and, as the law provides, against private parties; provided that, even without statutory provision, the rights guaranteed under Sections 2, 3, 19, 20, and 21 of this article shall in all cases be enforceable against private persons and constitute grounds for civil liability.

*[Author's Note: The provision is added in light of such cases as People v. Marti, in which the protection afforded by the Bill of Rights was deemed a protection only against the state. The section recognizes the doctrine, in view of its implicit consistency with the rule against ex post facto laws as recognized in both municipal and international law; but it makes provision for the protection of these rights vis-à-vis private persons.]*

#### **Article IV. The Rights and Duties of Citizens**

Section 1. Every citizen shall have the right against arbitrary deprivation of citizenship; and shall have the right and duty to vote freely and by secret ballot in all elections, referenda, and plebiscites, and to otherwise participate in public life, subject to the provisions of this article.

Section 2. The following are citizens of the Philippines:

1. Those who are citizens of the Philippines at the time of the adoption of this Constitution;
2. Those whose fathers or mothers are citizens of the Philippines;

3. Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
4. Those who are naturalized in accordance with law.

Section 3. Natural-born citizens are those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship. Those who elect Philippine citizenship in accordance with paragraph (3), Section 1 hereof shall be deemed natural-born citizens.

Section 4. Philippine citizenship may be lost or reacquired in the manner provided by law, provided that:

- a. No citizen of the Philippines may be deprived of his citizenship unless he becomes at the same time a citizen of another state by his consent, or be denied the right to change his nationality except in times of war;
- b. Citizens of the Philippines who marry aliens shall retain their citizenship, unless by other acts or omissions they are deemed, under the law, to have renounced it; and
- c. Decrees of naturalization shall be final and unassailable two years after their date of promulgation by competent authority.

The foregoing notwithstanding, the law may provide that, in pursuance of a treaty with another state, a person who has been a citizen also of the other state from birth, and who has his permanent domicile there, shall forfeit Philippine citizenship at or after the age of eighteen. The law may further provide that, upon the declaration of a state of war between the Philippines and a foreign country, persons who are citizens of both must immediately manifest their renunciation of citizenship in the hostile state.

*[Author's Note: The new provision is adapted from the Swedish Instrument of Government (chap. 2, art. 7) and article 15 of the Universal Declaration of Human Rights, and is introduced to provide additional protection to Philippine citizens from arbitrary deprivations of the rights of citizenship and from being rendered stateless. Note that the Universal Declaration of Human Rights (art. 15) affirms the right to nationality and against arbitrary deprivations thereof. The last sentence is added in recognition of the legal effects of an outbreak of war and to prevent disputes under international law such as the Nottebohm Case decided by the International Court of Justice.]*

Section 5. Dual allegiance of citizens shall be regulated by law.

Section 6. Suffrage may be exercised by all citizens of the Philippines, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage.

Section 7. Citizens shall have the right to free, fair, peaceful, and orderly elections, referenda, and plebiscites, which must faithfully reflect the will of the electorate. Citizens shall be guaranteed absolute freedom from coercion in voting, the absolute secrecy and sanctity of ballots, fair and open counting and canvassing of votes, and just and expeditious resolution of election disputes and controversies.

Section 8. The right of the people to information on matters of public concern shall be recognized. Access to public records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to reasonable conditions as may be provided by law. The State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

## Article V: Legislative Department

Section 1. The legislative power shall be vested in the Congress of the Philippines, except to the extent reserved to the people by the provision on initiative and referendum.

Section 2.

1. The Congress shall consist of a single chamber to be made up of Regional Representatives, two from each Region and elected by the people thereof, and District Representatives, one from each of the legislative districts apportioned among the provinces and cities of the Philippines and elected by the people thereof.
2. The regions from which the Regional Representatives shall be elected shall be co-extensive with the administrative and autonomous regions in place upon the effectivity of this Constitution, including the National Capital Region and the Autonomous Region of Muslim Mindanao; provided, however, that the inhabitants of every autonomous region hereafter created shall be entitled to elect one Regional Representative.
3. Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory, apportioned in accordance with the number of their respective inhabitants on the basis of a uniform ratio of one Representative for every 250,000 inhabitants. Their boundaries shall be drawn in accordance with those of the cities and municipalities that shall compose them.
4. The Congress shall revise the constituencies at least once in every twelve years, with due regard to changes in distribution of the population and the standards provided in this section, but any alterations in the constituencies shall not take effect during the life of Congress sitting when such revision is made.

*[Author's Note: The provision for a Congress with both district and regional Members instead of a Congress with only district members is similar to that of the Federal Convention of Germany under article 54(3) of its Constitution.*

*Paragraph 4 is taken from the Constitution of Ireland (art. 16), and is premised on the need to ensure an equitable apportionment of legislative districts. The equivalent provision in the 1987 Constitution did not give a minimum period within which re-apportionment would be undertaken, and might give rise to inequality in voting power among the inhabitants of the several districts. Note that the latter situation did arise in the United Kingdom, wherein changes in population among the several boroughs were not reflected in districting until the passage of the Reform Act of 1832.*

*The proposed provision takes account of the 17<sup>th</sup> Amendment to the United States Constitution. The regional Members are elected by region to allow equal representation by the several regions; and to minimize the expenses necessary to obtain election and thence to reduce their dependence on campaign financiers.]*

Section 3. No person shall be a Regional Member of Congress unless he is a citizen of the Philippines, and, on the day of the election, is at least forty years of age, holder of a tertiary educational degree, a registered voter, and a resident of the region from which he will be elected for not less than two years immediately preceding the day of the election.

No person shall be a District Member of Congress unless he is a citizen of the Philippines and, on the day of the election, is at least thirty years of age, holder of a tertiary educational degree, and 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.

*[Author's Note: The elimination of the natural-born citizenship requirement is made in view of the long procession of cases whereby otherwise well-qualified and competent persons were barred from public office due to the requirement, as well as the salient fact that, with the "globalization" of Philippine populations due to emigration, some provision must be made for those children of naturalized former Filipinos who may wish to enter public service. Note that in the United States, such outstanding government officers as former Secretary of State Madeleine Albright were not natural-born citizens.*

*The addition of a tertiary educational degree as a qualification for members of Congress simply recognizes the fact that the work involved (law making) requires adequate educational preparation. If such a tertiary degree qualification for other positions in government service can be required, it seems only logical that the highest positions in government will require at least an equivalent qualification.]*

Section 4. The term of office of the Members of Congress shall be three years and shall commence, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

Section 5. Unless otherwise provided by law, the regular election of the Members of the Congress shall be held on the second Monday of May.

Section 6. In case of vacancy in the Congress, a special election may be called to fill such vacancy in the manner prescribed by law. The Member of Congress thus elected shall serve only for the unexpired term.

Section 7. The salaries, allowances, honoraria, pensions, and other emoluments of Members of Congress shall be determined by law. No increase in said compensation or emolument shall take effect until after the expiration of the full term of all the Members of Congress approving such increase.

Section 8. A Member of Congress shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. No Member of Congress shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof.

Section 9. All Members of Congress shall, upon assumption of office, make a full disclosure of their financial and business interests. They shall notify the Congress of a potential conflict of interest that may arise from the filing of a proposed legislation of which they are authors.

Section 10. No Member of Congress 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 he be appointed to any office which may have been created or the emoluments thereof increased during the term for which he was elected.

Section 11. No Member of Congress may personally appear as counsel before any court of justice or before the Congressional Electoral Tribunal, 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 or 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.

Section 12. 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.

Section 13.

1. The Congress shall elect its Speaker from among the Regional Representatives by a majority vote of all its Members. It shall choose such other officers as it may deem necessary, provided that the

Deputy Speaker and the Chairmen of each of the standing committees of Congress shall likewise be chosen from among the Regional Representatives in Congress.

2. A majority of Congress 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 Congress may provide.
3. The Congress shall determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of three fourths of all its Members, suspend or expel a Member. A penalty of suspension, when imposed, shall not exceed sixty days.
4. The Congress 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-fifth of the Members present, be entered in the Journal. The Congress shall also keep a Record of its proceedings.

*[Author's Note: The requisite number for suspension or removal of Members is increased to protect members of minority parties.]*

Section 14. The Congress shall have an Electoral Tribunal that shall be the sole judge of all contests relating to the election, returns, and qualifications of its Members. The 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 Members of Congress, who shall be chosen on the basis of equal representation from the political parties or organizations represented therein. If there are more parties and organizations than there are available seats in the Electoral Tribunal, the selection of parties shall be drawn by lot. The senior Justice in the Electoral Tribunal shall be its Chairman.

Section 15. There shall be a Commission on Appointments consisting of all the Regional Representatives in Congress. 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 its Members.

Section 16. The Electoral Tribunal and the Commission on Appointments shall be constituted within thirty days after the Congress shall have been organized with the election of 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. Its decisions may be reviewed by the Constitutional Court, as may be proper, on petition for *certiorari*.

*[Author's Note: A new Constitutional Court is created in the Article on the Judiciary.]*

Section 17. 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.

Section 18. The Congress 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.

Section 19. The Congress or any of its respective committees may demand the presence of any officer of the National and local governments. The heads of departments may upon their own initiative, appear before and be heard by the Congress on any matter pertaining to their departments. 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.

*[Author's Note: This provision clarifies the power of Congress to summon other government officials, including those in the Executive branch. The amendment is taken from the Constitution of Germany (art. 43).]*

Section 20.

1. The Congress, by a vote of two-thirds of all its members 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, powers shall cease upon the next adjournment thereof.

Section 21. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the Congress.

Section 22 .

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 Speaker of the Congress, the Heads of the Permanent Courts, the Judicial Commission, and the 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.
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.

Section 23. Discretionary funds shall not be appropriated for particular officials absent clear public need expressly stated in the appropriations law. These shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law, which shall in no case confer absolute discretion in their use. Any provision that confers power over discretionary funds without specific guidelines for their use shall be invalid. In no case shall individual Members of Congress be permitted to disburse discretionary funds.

All disbursements of discretionary funds shall be subject to audit by the Commission on Audit, except those solely, actually, and directly used for national defense and internal security, if so exempted by law.

*[Author's Note: This section introduces restrictions on the appropriation and disbursement of discretionary funds.]*

Section 24.

1. Every bill passed by the Congress shall embrace only one subject that shall be expressed in the title thereof.
2. No bill passed by Congress 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 a 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.
3. 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 the same with his objections to the Congress, 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 Congress shall agree to pass the bill, it shall become a law. In all such cases, the votes of the Members of Congress shall be determined by yeas or nays, and the names of the Members voting for or against shall be entered in its Journal. The President shall communicate his veto of any bill to the Congress within thirty days after the date of receipt thereof, otherwise, it shall become a law as if he had signed it.
4. The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.

Section 25.

1. The rule to be followed in taxation shall be uniformity, equity, and simplicity.
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 parsonages 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.

*[Author's Note: In paragraph 1, the rule of simplicity in taxation is added.]*

Section 26.

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, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or health facility.

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.

*[Author's Note: The term 'health facility' is substituted for the current term 'leprosarium'.]*

Section 27 . No law shall be passed increasing the appellate jurisdiction of the Permanent Courts as provided in this Constitution without their advice and concurrence.

Section 28 . No law granting a title of royalty or nobility shall be enacted.

Section 29 . The Congress shall support and strengthen the law providing 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.

## **Article VI: Executive Department**

*[Author's Note: The amendments in this Article essentially consist of the introduction of additional qualifications for presidential candidates and procedural corrections in the light of there now being only one chamber of Congress.]*

Section 1. The executive power shall be vested in the President of the Philippines.

Section 2. No person may be elected President unless he is a natural-born citizen of the Philippines, a registered voter, holder of a tertiary educational degree, at least fifty years of age on the day of the election, and a resident of the Philippines for at least ten years immediately preceding such election. All aspirants for the position must have previously served at least one full term either as Governor of a province or autonomous region or as a Member of Congress, or at least five years as a senior level official (Bureau/Agency head or higher) in the Executive branch of government.

*[Author's Note: Additional qualifications have been specified for presidential candidates – that of a tertiary educational degree plus prior experience in public service. These requirements are added in recognition of the fact that the work involved requires both adequate educational preparation and some actual experience in government. The requirements are considered reasonable in the light of the fact that lower positions in government service specify even higher qualifications. The minimum age requirement is also increased.]*

Section 3. There shall be a Vice-President who shall have the same qualifications and term of office and be elected with and in the same manner as the President. He may be removed from office in the same manner as the President.

The Vice-President may be appointed as a Member of the Cabinet. Such appointment requires no confirmation.

Section 4. The President and the Vice-President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the thirtieth day of June next following the day of the election and shall end at noon of the same date six years thereafter. The President shall not be eligible for any reelection. No person who has succeeded as President and has served as such for more than four years shall be qualified for election to the same office at any time.

No Vice-President shall serve for more than two successive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of the service for the full term for which he was elected.

Unless otherwise provided by law, the regular election for President and Vice-President shall be held on the second Monday of May.

The returns of every election for President and Vice-President, duly certified by the board of canvassers of each province or city, shall be transmitted to the Congress, directed to the President of the Senate. Upon receipt of the certificates of canvass, the President of the Senate shall, not later than thirty days after the day of the election, open all the certificates in the presence of the Senate and the House of Representatives in joint public session, and the Congress, upon determination of the authenticity and due execution thereof in the manner provided by law, canvass the votes.

The person having the highest number of votes shall be proclaimed elected, but in case two or more shall have an equal and highest number of votes, one of them shall forthwith be chosen by the vote of a majority of all the Members of the Congress.

The Congress shall promulgate its rules for the canvassing of the certificates.

The Constitutional Court, sitting *en banc*, shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President, and may promulgate its rules for the purpose.

Section 5. Before they enter on the execution of their office, the President, the Vice-President, or the Acting President shall take the following oath or affirmation:

**"I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as President (or Vice-President or Acting President) of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man, and consecrate myself to the service of the Nation. So help me God."** (In case of affirmation, last sentence will be omitted.)

Section 6. The President shall have an official residence. The salaries of the President and Vice-President shall be determined by law and shall not be decreased during their tenure. No increase in said compensation shall take effect until after the expiration of the term of the incumbent during which such increase was approved. They shall not receive during their tenure any other emolument from the Government or any other source.

Section 7. The President-elect and the Vice-President-elect shall assume office at the beginning of their terms.

If the President-elect fails to qualify, the Vice-President-elect shall act as President until the President-elect shall have qualified.

If a President shall not have been chosen, the Vice-President-elect shall act as President until a President shall have been chosen and qualified.

If at the beginning of the term of the President, the President-elect shall have died or shall have become permanently disabled, the Vice-President-elect shall become President.

Where no President and Vice-President shall have been chosen or shall have qualified, or where both shall have died or become permanently disabled, the Speaker of the Congress or, in case of his inability, the Deputy Speaker of the Congress, shall act as President until a President or a Vice-President shall have been chosen and qualified.

The Congress shall, by law, provide for the manner in which one who is to act as President shall be selected until a President or a Vice-President shall have qualified, in case of death, permanent disability, or inability of the officials mentioned in the next preceding paragraph.

Section 8. In case of death, permanent disability, removal from office, or resignation of the President, the Vice-President shall become the President to serve the unexpired term. In case of death, permanent disability, removal from office, or resignation of both the President and Vice-President, the Speaker of the Congress or, in case of his inability, the Deputy Speaker of the Congress, shall then act as President until the President or Vice-President shall have been elected and qualified.

The Congress shall, by law, provide who shall serve as President in case of death, permanent disability, or resignation of the Acting President. He shall serve until the President or the Vice-President shall have been elected and qualified, and be subject to the same restrictions of powers and disqualifications as the Acting President.

Section 9. Whenever there is a vacancy in the Office of the Vice-President during the term for which he was elected, the President shall nominate a Vice-President from among the Members of the Congress who shall assume office upon confirmation by a majority vote of all the Members of the Congress.

Section 10. The Congress shall, at ten o'clock in the morning of the third day after the vacancy in the offices of the President and Vice-President occurs, convene in accordance with its rules without need of a call and within seven days enact a law calling for a special election to elect a President and a Vice-President to be held not earlier than forty-five days nor later than sixty days from the time of such call. The bill calling such special election shall be deemed certified under paragraph 2, Section 26, Article VI of this Constitution and shall become law upon its approval on third reading by the Congress. Appropriations for the special election shall be charged against any current appropriations and shall be exempt from the requirements of paragraph 4, Section 25, Article VI of this Constitution. The convening of the Congress cannot be suspended nor the special election postponed. No special election shall be called if the vacancy occurs within eighteen months before the date of the next presidential election.

Section 11. Whenever the President transmits to the Speaker of the Congress his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice-President as Acting President.

Whenever a majority of all the Members of the Cabinet transmit to the Speaker of the Congress their

written declaration that the President is unable to discharge the powers and duties of his office, the Vice-President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the Speaker of the Congress his written declaration that no inability exists, he shall reassume the powers and duties of his office. Meanwhile, should a majority of all the Members of the Cabinet transmit within five days to the Speaker of the Congress their written declaration that the President is unable to discharge the powers and duties of his office, the Congress shall decide the issue. For that purpose, the Congress shall convene, if it is not in session, within forty-eight hours, in accordance with its rules and without need of call.

If the Congress, within ten days after receipt of the last written declaration, or, if not in session, within twelve days after it is required to assemble, determines by a two-thirds vote of all its Members that the President is unable to discharge the powers and duties of his office, the Vice-President shall act as President; otherwise, the President shall continue exercising the powers and duties of his office.

Section 12. In case of serious illness of the President, the public shall be informed of the state of his health. The Speaker of the Congress, the Chancellor and the Associate Justices of the Constitutional Court, the Members of the Cabinet in charge of national security and foreign relations, and the Chief of Staff of the Armed Forces of the Philippines, shall not be denied access to the President during such illness.

Section 13. The President, Vice-President, the Members of the Cabinet, and their deputies or assistants shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office.

The spouse and relatives by consanguinity or affinity within the fourth civil degree of the President shall not during his tenure be appointed as Members of the Constitutional Commissions, or the Office of the Ombudsman, or as Secretaries, Undersecretaries, chairmen or heads of bureaus or offices, including government-owned or controlled corporations and their subsidiaries.

Section 14. Appointments extended by an Acting President shall remain effective, unless revoked by the elected President within ninety days from his assumption or re-assumption of office.

Section 15. Two months immediately before the next presidential elections and up to the end of his term, a President or Acting President shall not make appointments, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety.

Section 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, the Chief of Staff and the commanders of the major services of the Armed Forces of the Philippines, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether

voluntary or compulsory, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress.

*[Author's Note: The power of the President to appoint officers in the Armed Forces is limited here to the Chief of Staff and to the major service commanders. The power to appoint officers in the Foreign Service is likewise limited to those of ambassadorial rank or higher. This is intended to reduce the politicization of the Armed Forces and the Foreign Service.]*

Section 17. The President shall have control of all the executive departments, bureaus, and offices. He shall ensure that the laws be faithfully executed.

Section 18. The President shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion. In case of invasion or rebellion, when the public safety requires it, he may, for a period not exceeding sixty days, suspend the privilege of the writ of *habeas corpus* or place the Philippines or any part thereof under martial law. Within forty-eight hours from the proclamation of martial law or the suspension of the privilege of the writ of *habeas corpus*, the President shall submit a report in person or in writing to the Congress. The Congress, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it.

The Congress, if not in session, shall, within twenty-four hours following such proclamation or suspension, convene in accordance with its rules without need of a call.

The Constitutional Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof, and must promulgate its decision thereon within thirty days from its filing.

A state of martial law does not suspend the operation of the Constitution, nor supplant the functioning of the civil courts or legislative assemblies, nor authorize the conferment of jurisdiction on military courts and agencies over civilians where civil courts are able to function, nor automatically suspend the privilege of the writ.

The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or offenses inherent in or directly connected with invasion.

During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released.

Section 19. Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment. He shall also have the power to grant amnesty with the concurrence of a majority of all the Members of the Congress.

Section 20. The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the Congress a complete report of its decision on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which

would have the effect of increasing the foreign debt, and containing other matters as may be provided by law.

Section 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 Congress.

Section 22. The President shall submit to the Congress within thirty days from the opening of every regular session, as the basis of the general appropriations bill, a budget of expenditures and sources of financing, including receipts from existing and proposed revenue measures.

Section 23. The President shall address the Congress at the opening of its regular session. He may also appear before it at any other time.

### **Article VII: Judicial Department**

*[Author's Note: The amended article is intended both to strengthen the Judiciary and to prevent abuse of its powers. Among others, many of the administrative powers of the Supreme Court are transferred to the Judicial and Bar Council, reconstituted as the Judicial Commission, in order to allow the Supreme Court to focus on the task of litigation. Of particular importance is the vesting of the rulemaking power in the JBC. This is necessitated by the tendency of the Supreme Court to ignore the rules it promulgated with little predictability, or to promulgate rules—like those on Provisional Remedies, declared unconstitutional in the United States—that constitute implicit violations of due process rights. One need only remark on how the frequent issuance of injunctions and temporary restraining orders (TRO's) has interrupted the flow of commerce and created the perception among foreign investors that the Philippines has an irresponsible judiciary. These and other concerns are sought to be rectified below.]*

Section 1. The judicial power shall be vested in the Constitutional Court and the Supreme Court, which shall be the Permanent Courts, and in such lower courts as may be established by law. The Judicial Commission shall exercise administrative supervision over the entire Judiciary except the Constitutional Court.

Section 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts but may not deprive the Permanent Courts and the Judicial Commission of their jurisdiction as vested in this Constitution. Neither may the Judicial Commission, through its rulemaking powers, deprive any court of its jurisdiction under the Constitution or law.

Section 3. There is hereby established a Constitutional Court, to be composed of the Chancellor and six Associate Justices, the latter to have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages. It shall be organizationally and financially separate from the rest of the Judiciary, and it shall not be subject to the administrative and rulemaking powers of the Judicial Commission. The Constitutional Court and, in the exercise of their office, its Members, shall be independent and subject only to the Constitution.

*[Author's Note: The Constitutional Court is patterned after the Austrian Administrative Court and Constitutional Court (articles 129-130), the Polish Constitutional Tribunal (see art. 195 of its Constitution) and Tribunal of State, and especially, the German Constitutional Court. Its creation is proposed to allow the Supreme Court to concentrate on the application of laws other than the Constitution.]*

Section 4. A Member of the Constitutional Court must be at least fifty years of age, a citizen of the Philippines, a resident thereof for not less than two years immediately preceding the day of his appointment and a member of the Philippine Bar who has been for twenty years or more a judge of a lower court, or a professor of law, or engaged in the practice of law in the Philippines.

The President shall appoint the members of the Constitutional Court from a list of qualified candidates prepared by the Judicial Commission. Such appointments need no confirmation. The members of the Constitutional Court shall hold office during good behavior until they reach the age of seventy years or become unable to discharge the duties of their office.

Section 5. The Constitutional Court shall have plenary jurisdiction to interpret and enforce this Constitution, and to oversee the acts of all offices and officers of the State, including the Supreme Court and the Judicial Commission. It shall have the following powers:

1. It shall have original jurisdiction over:
  - a. All disputes between the National Government and one or more autonomous regions, among autonomous regions, and among two or more organs of the National Government, for purposes of which the Congress, the President, the President, the Constitutional Court, the Supreme Court, the Judicial Commission, the Constitutional Commissions, and the independent authorities under this Constitution shall be deemed distinct bodies;
  - b. All disputes between the Government of the Philippines or any organ, instrumentality, or officer thereof, and one or more countries or international entities, concerning their respective rights, powers, and duties under the applicable norms of Philippine or international law;
  - c. All complaints of unconstitutionality, which may be entered by any person who alleges a violation by public authority of his rights under this Constitution;
  - d. Petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, declaratory relief, and *habeas corpus*, insofar as they require the interpretation of the Constitution or pertain to the matters enumerated in this section; and
  - e. All cases of impeachment, except those charging members of the Constitutional Court and the Supreme Court.
2. It shall have appellate jurisdiction over all final judgments and orders of the Supreme Court and the Judicial Commission in all cases that ruled upon the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation, or the jurisdiction of any court; and it may modify the decision to the extent affected by question of validity or jurisdiction.
3. It may review final and executory acts or decisions of the Supreme Court, the Judicial Commission, the High Courts of autonomous regions, if any, and, subject to the hierarchy of courts as provided by law, every other organ, instrumentality, or officer of Government and any other entity endowed with State authority, to determine whether they have acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.
4. It shall promulgate rules on the conduct of its proceedings
5. It shall appoint its employees in accordance with Civil Service law, and shall exercise administrative jurisdiction over them.
6. It shall exercise all other powers vested under this Constitution, and all powers necessary or incidental to the powers vested under this Constitution or by law.

[Author's Note: The provision is adapted from article VIII, sec. 5 of the 1987 Constitution, section 131 of the Constitution of India, and article 93 of the German Constitution.]

Section 6. All decisions of the Constitutional Court shall be part of the law of the land, and shall be binding on all other organs and instrumentalities of government. All offices and officers of government shall, if ordered by the Constitutional Court, cooperate in the enforcement of its decisions.

Section 7. If a law, treaty, ordinance, regulation, contract or other normative instrument has been pronounced invalid, it shall cease to have legal effect fifteen days after its promulgation. However, the legislative or quasi-legislative act invalidated shall continue to apply to the circumstances effected before its invalidation, the case in point excepted, unless the Constitutional Court in its decision expressly provides otherwise. The Court may set another date in which the legislative or quasi-legislative act shall cease to have legal effect, which shall not be more one year after its decision is promulgated, in which the invalidated act shall apply to all the circumstances effected, the case in point excepted, till the expiry of this deadline.

*[Author's Note: This section is added to prevent disputes over the applicability of pronouncements of invalidity and to protect vested rights arising from nullified normative instruments. It is adapted from article 140 of the Austrian Constitution.]*

Section 8. Any court may refer a question of law to the Constitutional Court as to the conformity of any law, treaty, ordinance, or other act of government to the Constitution or, where applicable, to duly ratified treaties, if the answer to such question of law will determine an issue currently before such court. The Constitutional Court shall likewise refer to the Supreme Court or to a High Court matters requiring interpretation of national or regional law.

*[This is adapted from article 193 of the Constitution of Poland, and is added to prevent conflicts of jurisdiction.]*

Section 9. The Judicial and Bar Council is hereby reconstituted as the Judicial Commission, to be composed of a Chairman and six Commissioners, the latter to have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages. A Member of the Judicial Commission must be at least forty years of age, a citizen of the Philippines, a resident thereof for not less than two years immediately preceding the day of his appointment, and a member of the Philippine Bar who has been for fifteen years or more a judge of a lower court, or a professor of law, or engaged in the practice of law in the Philippines.

Among the Members of the Commission, there must at least one professor of law and one retired Member of the Supreme Court. The Secretary of Justice and a representative of the Congress may sit in the Council as *ex officio* observers and join in its deliberations, but shall not vote.

The President shall, upon the concurrence of the Congress, appoint the members of the Judicial Commission for a term of twelve years, without reappointment. Of the Associate members first appointed, two shall serve for three years, two for six years, and two for nine years. The first Chairman shall serve for a full twelve years. In case of vacancy, the President must nominate a replacement within sixty (60) days from the occurrence thereof, and the Congress must act on the nomination within sixty (60) days from its submission, failing which the nominee shall be deemed appointed. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor.

Section 10. The Judicial Commission shall have administrative supervision over the judiciary and its personnel, except over the Constitutional Court, and it shall have the following powers, in addition to those conferred under this Constitution or by law:

1. It shall oversee the resources and administer the budget assigned by law to the administration of justice, except for the resources allocated to the Constitutional Court.

2. It shall recommend appointees to the Judiciary and the Constitutional Commissions, which shall be non-binding unless otherwise provided in this Constitution or by law.
3. It shall approve the appointment of all officials and employees of the Judiciary, except for justices and judges, in accordance with the Civil Service Law.
4. It may temporarily assign judges of lower courts to other stations as public interest may require. Such temporary assignment shall not exceed six months without the consent of the judge concerned.
5. It may, upon the petition of a party in interest, order a change of venue or place of trial to avoid a miscarriage of justice.
6. In default of statutory rules or in furtherance thereof, it shall promulgate rules concerning the organization of the Judiciary; pleading, practice, and procedure in all courts; admission to the practice of law; and legal assistance to the underprivileged. Such rules shall ensure the independence of judges and the efficient administration of justice, shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, modify substantive rights. They shall not bind the Constitutional Court.
7. It may investigate justices and judges of lower courts, as well as members of the Philippine Bar, and, by a vote of five Members, impose appropriate disciplinary measures in accordance with a schedule of penalties duly promulgated as provided under the preceding subsection.

*[Author's Note: The Judicial Commission is patterned after equivalent institutions in other countries, such as the Spanish General Council of the Judicial Power, Portugal's Higher Council of the Bench, and Poland's National Council of the Judiciary. In particular, the two preceding provisions are adapted from the Constitution of Argentina (sec. 114), and are intended to remove the non-adjudicative responsibilities of the Supreme Court, thereby allowing it to focus on the task of deciding cases and matters in contention, and to transfer these functions to the Judicial Commission. This would reduce the workload of the Supreme Court, which, at present, is overly massive and may be a factor leading to delay and decline in quality of adjudication.]*

Section 11. The Supreme Court shall be composed of a Chief Justice and eight Associate Justices, the latter to have precedence according to the date of their commissions, or, when the commissions of two or more of them bear date on the same day, according to their respective ages. A Member of the Supreme Court must be at least forty years of age, a citizen of the Philippines, a resident thereof for not less than two years immediately preceding the day of his appointment, and a member of the Philippine Bar who has been for fifteen years or more a judge of a lower court, or a professor of law, or engaged in the practice of law in the Philippines.

The President shall appoint the members of the Supreme Court from a list of qualified candidates prepared by the Judicial Commission. Such appointments need no confirmation. The members of the Supreme Court shall hold office during good behavior until they reach the age of seventy years or become unable to discharge the duties of their office. In case of vacancy, the President must name a replacement within sixty (60) days from the occurrence thereof.

*[Author's Note: The provision for a 9-member Supreme Court is intended to prevent the unwieldy number of justices from constituting a problem for en banc deliberations. Decisions by division are eliminated in view of the problem created by divisions that constitute, in fact, separate Supreme Courts and, through decisions inconsistent with those of other divisions and the Court en banc, create legal instability that discourages foreign investment and private enterprise. The time for filling vacancies is shortened in view of the heightened importance of each individual Justice under the proposed structure. The clause on the precedence to be recognized among the Associate Justices is taken from the United States Judiciary Act (sec. 1), and is intended to obviate questions on this point.]*

Section 12. The Supreme Court shall be a court of general jurisdiction, and shall be the highest judicial body in all branches of justice except those within the competence of the Constitutional Court. It shall have the following powers:

1. It shall exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.
2. It may review, affirm, reverse, or modify, on appeal or *certiorari* as the law may provide, final judgments and orders of lower courts in all cases in which only an error or question of law is involved, and all criminal cases in which the penalty imposed is imprisonment exceeding twenty years or death.
3. It shall appoint all officials and employees of the Supreme Court in accordance with the Civil Service Law and exercise administrative supervision over them, subject to the approval of the Judicial Commission.

*[Author's Note: The first sentence is adapted from the Constitution of Spain (art. 123) and the Swedish Instrument of Government (chap. 11, art. 1), and is intended to distinguish its power from the Constitutional Court created under this article. Under the new article, the Supreme Court is largely deprived of its non-adjudicatory functions, in order to allow it to concentrate on its judicial task and to make for a more efficient and expeditious resolution of cases submitted to it.]*

Section 13. To preserve the uniformity of application of law, the Permanent Courts and the Judicial Commission shall sit *en banc*, for which the attendance of a majority of the members shall constitute a quorum. Congress, by law, may allow the Permanent Courts to work through divisions of three members; provided that, in any case, decisions of divisions must be approved by the respective Court *en banc*.

*[Author's Note: The provision is dictated by the need to secure consistency in judicial rulings and interpretation of law. As noted above, decisions by division are problematic as they effectively constitute separate Courts and, through decisions inconsistent with those of other divisions and the Court *en banc*, create legal instability that discourages foreign investment and private enterprise. The first clause is taken from the Constitution of Germany (art. 95), and is added to make the purpose of the change explicit.]*

Section 14. A member of a Permanent Court or the Judicial Commission shall not be held criminally responsible or deprived of liberty without prior consent granted by the Constitutional Court. He shall be neither detained nor arrested, except for cases when he has been apprehended in the commission of an offence and in which his detention is necessary for securing the proper course of proceedings. The Chancellor shall be immediately notified forthwith of any such detention and may order an immediate release of the person detained.

*[Author's Note: The provision is adapted from the Constitution of Poland (art. 196), and is added to further strengthen judicial independence.]*

Section 15. The members of the Permanent Courts or the Judicial Commission shall not, unless otherwise provided in this Constitution, hold any other office or employment during their tenure. They shall not, during said tenure, directly or indirectly, practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office. The spouse and relatives by consanguinity or affinity within the fourth civil degree of a member of the Permanent Courts or the Judicial Commission shall not during his tenure be appointed as an employee of the tribunal concerned.

Section 16. The Judiciary shall enjoy fiscal autonomy. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released.

The members of the Judiciary shall be provided with appropriate conditions for work and granted remuneration consistent with the dignity of the office and the scope of their duties. Such remuneration shall be fixed by law, and shall not be decreased during their continuance in office. It shall also be exempt from wage and classification laws and regulations, except those solely applicable to the Judiciary.

*[Author's Note: This is adapted from section 3 of article IX in the House of Representatives draft.]*

Section 17. The Congress, by law, shall prescribe the qualifications of the magistrates of lower courts, but no person may be appointed justice or judge unless he is a citizen of the Philippines and a member of the Philippine Bar, and a person of proven competence, integrity, probity, and independence.

Section 18. Unless otherwise provided by law, the Members of the lower courts shall have such security of tenure as provided under section 4 of article X-A below, which shall be administered by the Judicial Commission.

No law shall be passed reorganizing the Judiciary when it undermines the security of tenure of its members

Section 19. The Judiciary and its Members shall be characterized by independence and probity. No public authority may determine how a court of law shall adjudicate an individual case or otherwise apply a rule of law in a particular case, except insofar as it may be bound by general law or the decisions of higher courts or otherwise guided by precedent.

A member of the Judiciary shall not, during his tenure, hold other public office or be designated to any agency performing quasi-judicial or administrative functions. He shall not belong to political parties or unions, except professional associations for judges, magistrates and prosecutors that are organized in accordance with law. The law shall make provision for the system of incompatibilities for members of the Judiciary, which must ensure their total independence.

*[Author's Note: The 1<sup>st</sup> clause of the first paragraph's second sentence is taken from the Swedish Instrument of Government (chap. 11, art. 2), and the last two sentences of the second paragraph are adapted from section 127 of the Spanish Constitution. They are added to strengthen judicial independence.]*

Section 20. The conclusions of a collegiate Court in any case submitted to it for decision shall be reached in consultation before the case is assigned to a Member for the writing of the opinion of the Court. The Member who authors the opinion shall append to it a written declaration that he authored the opinion and deliberated on the arguments and grounds stated therein. A certification to this effect signed by the presiding magistrate and the author of the opinion shall be issued and a copy thereof attached to the record of the case and served upon the parties.

Section 21. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. Such decision shall be written with simplicity, cold objectivity, and economy of language.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis. Any Member who took no part, or dissented, or abstained from a decision or resolution of a collegiate Court must state the reason therefor.

Section 22.

1. All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission to a Permanent Court or the Judicial

Commission, and, unless reduced by the Judicial Commission, twelve months for all lower collegiate courts, and three months for all other lower courts.

2. A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.
3. Upon the expiration of the corresponding period, a certification to this effect signed by the presiding magistrate shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties. The certification shall state why a decision or resolution has not been rendered or issued within said period.
4. Despite the expiration of the applicable period, the court, without prejudice to such responsibility as may have been incurred in consequence thereof, shall decide or resolve the case or matter submitted thereto for determination, without further delay. The Congress or, in default thereof, the Judicial Commission shall promulgate rules determining the consequences of delay on the part of lower courts.

Section 23. The Judicial Commission shall, within thirty days from the opening of each regular session of the Congress, submit to the President and the Congress an annual report on the operations and activities of the Judiciary. A separate report shall be submitted by the Constitutional Court.

## **Article VIII : Constitutional Commissions**

### *A. Common Provisions*

Section 1. The Constitutional Commissions, which shall be independent, are the Civil Service Commission, the Commission on Elections, the Commission on Audit, the Corruption Commission, and the Rights Enforcement Commission.

Section 2. No member of a Constitutional Commission shall, during his tenure, hold any other office or employment. Neither shall he engage in the practice of any profession or in the active management or control of any business which in any way may be affected by the functions of his office, nor shall he be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege granted by the Government, any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations or their subsidiaries.

Section. 3. The salary of the Chairman and the Commissioners shall be fixed by law and shall not be decreased during their tenure.

Section 4. The Constitutional Commissions shall appoint their officials and employees in accordance with law.

Section 5. The Commissions shall enjoy fiscal autonomy. Their approved annual appropriations shall be automatically and regularly released.

Section 6. Each Commission *en banc* may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights.

Section 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Constitutional Court in the case of the Rights Enforcement Commission and the Corruption Commission, and to the Supreme Court, in the case of the other Commissions, on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.

Section 8. Each Commission shall perform such other functions as may be provided by law.

*B. The Civil Service Commission*

Section 1.

1. The civil service shall be administered by the Civil Service Commission composed of a Chairman and two Commissioners who shall be citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a tertiary educational degree and with proven capacity for public administration, and must not have been candidates for any elective position in the elections immediately preceding their appointment.
2. The Chairman and the Commissioners shall be appointed by the President with the consent of the Congress for a term of twelve years without reappointment. Of those first appointed, the Chairman shall hold office for twelve years, a Commissioner for eight years, and another Commissioner for four years. Appointment to any vacancy shall be only for the unexpired term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

Section 2. The Civil Service Commission, as the central personnel agency of the Government, shall administer and enforce Constitutional and statutory provisions on the merit system as basis for appointment and advancement; prescribe and enforce suitable rules and regulations, and promulgate policies, standards, and guidelines for the civil service; control and supervise the drafting and the conduct of civil service examinations in accordance with the educational requirements set by law; review any removal or suspension exceeding six months imposed by agencies on career members of the civil service and reverse or revise this if the measure was excessive or made in violation of applicable laws and regulations or done for manifestly trivial or political reasons or with grave abuse of authority; review all personnel actions concerning government employees upon petition or *motu proprio*; inspect and audit periodically the personnel work programs of different agencies including the Congress and bodies with fiscal autonomy under this Constitution; review compliance by government agencies and heads thereof with civil service laws and regulations, and provide or recommend appropriate sanctions or rewards therefore; appoint its personnel and exercise control and supervision over them; and exercise such other functions and powers as may be vested by law.

The Commission shall, in every case, maintain a competent and efficient career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

Section 3. In addition to such other functions and powers as may be vested in the Commission by Constitution or law as provided below, it shall have the authority to investigate, motu proprio or upon duly-filed complaint, violations of law or regulations on relating to matters under its competence, and shall have the power to file the appropriate criminal or other cases in consequence thereof. All records of any agency or officer of government under investigation shall be open to the Commission and its assigned investigators, and the Commission may demand the presence of any officer of government and the production of or access to any pertinent documents or effects relevant to its investigation, on pain of contempt.

*[Author's Note: This provision is added to give further teeth to the independence and authority of the Commission.]*

*C. The Commission on Elections*

Section 1.

1. There shall be a Commission on Elections composed of a Chairman and six Commissioners who shall be citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, holders of a tertiary educational degree, and must not have been candidates for any elective position in the immediately preceding elections. However, a majority thereof, including the Chairman, shall be members of the Philippine Bar who have been engaged in the practice of law for at least ten years.
2. The Chairman and the Commissioners shall be appointed by the President with the consent of the Congress for a term of twelve years without reappointment. Of those first appointed, two Members shall hold office for four years, two Members for eight years, and the last three Members, including the Chairman, for twelve years,. Appointment to any vacancy shall be only for the unexpired term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

Section 2. The Commission on Elections shall:

- 1) enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall;
- 2) exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city or equivalent officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction;
- 3) decide all questions affecting elections, except those involving the right to vote, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters;
- 4) deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections;
- 5) register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government, provided that no party or organization shall be denied registration for any substantive reason except advocacy or use of violence or unlawful means to seek its objectives, violation of the laws and regulations relating to elections, and declaration of untruthful statements in its petition for registration;
- 6) accredit citizens' arms of the Commission on Elections;

- 7) file, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters;
- 8) investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices, which power shall not exclude the filing of complaints by concerned citizens and citizens' groups or investigation and prosecution by other government agencies;
- 9) recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies;
- 10) recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action for violation or disregard of, or disobedience to, its directives, orders, or decisions; and
- 11) submit to the President and to Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

*[Author's Note: The change is intended to encourage the formation of parties by liberalizing the requirements for their establishment and registration. It is adapted from the previous provision and from Republic Act No. 7941.]*

Section 3. The Commission may, during the election period, supervise or regulate the enjoyment or utilization of all franchises or permits for the operation of transportation and other public utilities, media of communication or information, all grants, special privileges, or concessions granted by the Government or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation or its subsidiary. Such supervision or regulation shall aim to ensure equal opportunity, equal rates therefor, for public information campaigns and forums among candidates in connection with the objective of holding free, orderly, honest, peaceful, and credible elections.

Section 4. The Congress, by law, or in default thereof, the Judiciary and the Commission on Elections through reasonable regulations, shall strengthen the present structures and norms governing the exercise of suffrage. It shall provide:

1. Efficient methods of voter registration that will protect the right to suffrage
2. Fair and expeditious procedures for the canvassing of votes;
3. Fair and expeditious methods for resolving disputes and controversies relating to elections, referenda, and plebiscites;
4. Measures to guarantee equal opportunities in electoral and other campaigns, including the provisions for subsidies for campaign spending or limitations thereon, prohibitions or limitations on campaign contributions, regulations on the use of broadcast, electronic or print media, and other necessary measures;
5. Information and educational campaigns conducted by the Commission or deputized non-governmental entities on the proper conduct of elections; on a fair and equal basis, the identities, backgrounds and platforms of candidates and parties, and the arguments for and against laws, charges and amendments proposed for referendum, recall or plebiscite;
6. Rules allowing and regulating the active participation of citizens and citizens' groups in the implementation and enforcement of election laws, and the passive participation of international observers; and
7. Other measures and regulations necessary for ensuring free, fair, peaceful, and efficient elections.

The measures, methods, and procedures above may include the use of electronic or broadcast mechanisms and protocols, which shall conform, at the minimum, to applicable legal standards and whose programming, use, and output shall be open to public scrutiny.

Section 5. No pardon, amnesty, parole, or suspension of sentence for violation of election laws, rules, and regulations shall be granted by the President without the favorable recommendation of the Commission, without prejudice to the provisions of section 2 of article III of this Constitution.

Section 6 Unless otherwise fixed by the Commission in special cases, the election period shall commence ninety days before the day of election and shall end thirty days thereafter.

Section 7. Funds certified by the Commission as necessary to defray the expenses for holding regular and special elections, plebiscites, initiatives, referenda, and recalls, shall be provided in the regular or special appropriations and, once approved, shall be released automatically upon certification by the Chairman of the Commission.

*D. The Commission on Audit*

Section 1.

1. There shall be a Commission on Audit composed of a Chairman and four Commissioners, who shall be citizens of the Philippines and, at the time of their appointment, at least thirty-five years of age, certified public accountants with not less than ten years of auditing experience, or management experts engaged in the practice or teaching of management for at least ten years, or members of the Philippine Bar who have been engaged in the practice of law for at least ten years, and must not have been candidates for any elective position in the elections immediately preceding their appointment. At no time shall all Members of the Commission belong to the same profession.
2. The Chairman and the Commissioners shall be appointed by the President with the consent of the Congress for a term of twelve years without reappointment. Of those first appointed, the Chairman shall hold office for twelve years, two Commissioners for eight years, and the other two Commissioners for four years. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

Section 2.

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

and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

3. The Commission shall have the authority to initiate investigations, motu proprio or upon duly filed complaint, violations of law or regulations on relating to matters under its competence, and shall have the power to file the appropriate criminal or other cases in consequence thereof. All records of any agency or officer of government under investigation shall be open to the Commission and its assigned investigators, and the Commission may demand the presence of any officer of government and the production of or access to any pertinent documents or effects relevant to its investigation, on pain of contempt.

Section 3. No law shall be passed exempting any entity of the Government or its subsidiary in any guise whatever, or any investment of public funds, from the jurisdiction of the Commission on Audit, except as may be otherwise provided under this Constitution.

Section 4. No officer of the Commission shall be assigned to audit the same office, agency or entity for more than one year.

Section 5. When the Commission deems it necessary and appropriate, it may procure the services of a competent and respected private auditor to assist it in its auditing functions, subject to such limitations as may be set by law or, in default thereof, by the rules of the Commission. Any agreement reached with the auditor shall not exceed the renewable period of five years, and the auditor shall in every case be subject to the review and supervision of the Commission. In no case shall a private auditor be assigned to audit the same office, agency or entity for more than two consecutive years.

Section 6. The Commission shall submit to the President and the Congress, within the time fixed by law, an annual report covering the financial condition and operation of the Government, its subdivisions, agencies, and instrumentalities, including government-owned or controlled corporations, and non-governmental entities subject to its audit, and recommend measures necessary to improve their effectiveness and efficiency. It shall submit such other reports as may be required by law.

#### *E. The Rights Enforcement Commission*

*[Under the proposed sections, the Commission of Human Rights, which was largely defanged by the Supreme Court under the Simon ruling, is reorganized and expressly recognized as a constitutional commission and given powers to prosecute and issue protective orders. It is further given the additional mandate of enforcing the rules of armed conflict, which is done in view of the occurrence of internal armed conflict in the Philippines and their being frequent occasions for abuses by both government and rebel forces. The Commission is thus implicitly made the primary institutional guarantee against abuse of power.]*

Section 1. The Commission on Human Rights is hereby reconstituted as the Rights Enforcement Commission, to be composed of a Chairman and four Members. It shall be tasked with the protection of civil and political rights and the enforcement of the laws of armed conflict.

Section 2. The Members of the Rights Enforcement Commission shall be citizens of the Philippines, and at the time of their appointment, at least forty years old, or recognized probity and independence, members of the Philippine Bar, and for ten years or more a judge or engaged in the practice of law in the Philippines, and not candidates for any elective office in the immediately preceding election.

Section 3. The Chairman and the Commissioners shall be appointed by the President with the consent of the Congress for a term of twelve years without reappointment. Of those first appointed, the Chairman shall hold office for twelve years, one Commissioner for nine years, two for six years, and the last for three years. Appointment to any vacancy shall be only for the unexpired portion of the term of the

predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity. No more than one commissioner may, under any circumstance, be a military reservist, a retired general or flag officer of the armed forces, or a retired member of the police.

Section 4. The Rights Enforcement Commission shall investigate, on its own or on complaint by any party, any violations of civil and political rights, and of the laws of armed conflict, by any public or private entity within or, subject to the applicable norms of diplomatic relations, outside the Philippines. It shall exercise all powers necessary and incidental to this function, including: the issuance of temporary protective orders, effective for ninety days, for the physical protection of parties or the maintenance of status quo ante, including release of prisoners or detainees to its custody, which shall not, unless otherwise provided by law, include the suspension of legitimate operations without the consent of the Constitutional Court; *the issuance of* regulations providing for legal measures to protect the human rights of all persons within the Philippines and of Filipinos residing abroad and the safeguarding the rights and privileges of protected persons under humanitarian law, and to ensure compliance by all combatants with the laws of armed conflict; and the provision for preventive measures and legal aid services to the underprivileged whose human rights or rights under the laws of armed conflict have been violated or need protection.

Section 5. The Commission may directly file the appropriate criminal, administrative, or other proceedings in competent tribunals, including, upon a finding of four Commissioners that all available remedies within the Philippines are ineffective, international bodies.

#### *F. The Corruption Commission*

Section 1. The Office of the Ombudsman is hereby reconstituted as the Corruption Commission composed of a Chairman and four Commissioners.

Section 2. The members of the Corruption Commission shall be citizens of the Philippines, and at the time of their appointment, at least forty years old, of recognized probity and independence, holders of at least a tertiary educational degree and not candidates for any elective office in the immediately preceding election. The Chairman and, unless the law otherwise provides, at least two Commissioners shall be members of the Philippine Bar, and for ten years or more a judge or engaged in the practice of law in the Philippines. Likewise, unless the law otherwise provides, at least one Commissioner shall be a member of a bona fide non-governmental organization tasked with combating corruption or improving governance.

Section 3. The Chairman and the Commissioners shall be appointed by the President with the consent of the Congress for a term of twelve years, without reappointment, from a non-binding list of at least twelve nominees prepared by the Judicial Commission, and from a list of three nominees for every vacancy thereafter. Of those first appointed, the Chairman shall hold office for twelve years, one Commissioners for nine years, two for six, and one for three years. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.

The members of the Corruption Commission shall not be qualified to run for any office in the election immediately succeeding their cessation from office.

Section 4. The Corruption Commission shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, for violations of the laws and regulations on graft and corruption, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

It shall have the power, function, and duty to:

- 1) investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to violate the laws and regulations against graft and corruption, and file, or direct the Special Prosecutor the appropriate charges with the proper court or agency;
- 2) appoint Special Prosecutors to investigate complaints or reports for laws and regulations against graft and corruption and to file the appropriate charges with the proper court or agency, or deputize proper government agencies or non-governmental persons or entities to conduct such investigations as Special Investigators;
- 3) demand the presence of any officer of government and the production of or access to any persons, places, documents or effects as may be relevant to its investigation, on pain of contempt;
- 4) initiate and prosecute cases of Judicial impeachment, *motu proprio* or upon verified complaint; issue protective orders to prevent concealment, destruction, or removal of evidence, and absconding of persons under investigation;
- 5) grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- 6) direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;
- 7) direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith;
- 8) direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action; examine, if necessary, pertinent records and documents, or request any government agency for assistance and information necessary in the discharge of its responsibilities;
- 9) publicize matters covered by its investigation when circumstances so warrant and with due prudence; determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency; and
- 10) promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

Section 5. A Special Prosecutor shall be at least thirty years of age at the time of his appointment, and a member of the Philippine Bar engaged in the practice of law for at least five years. He shall have such

requirements as may be set by law or, in default thereof, by the rules of the Commission; but he shall not, in any case, be a present or former member of any office he may be tasked to investigate. He may be a specially designated member of the Commission, in which case he shall not receive any additional emoluments other than allowances for expenses necessary for his investigation, and shall participate in deliberations on his report. Unless a Special Act provides to the contrary, there shall be, on a permanent basis, one Special Prosecutor each on revenue collection, public works and concessions, and on judicial and quasi-judicial conduct.

No government agency shall be deputized as a Special Investigator to investigate its own officers.

The Special Prosecutor or Special Investigator shall investigate, *motu proprio*, upon complaint, or upon the direction of the Commission, violations of laws within his investigative authority as defined by the Commission. He shall directly exercise all the investigative powers that may be possessed by the Commission except the powers to issue protective orders and grant immunity.

## **Article IX: Local Government**

*[Author's Note: The primary purpose of the amendments to this Article is to afford both flexibility to the legislature (in case it wishes to restructure local government) and protection to local government units from national government interference. Regional autonomy is placed in a separate sub-article, and provisions are made for the creation of multiple autonomous regions if Congress so decides.]*

### *A. Local Government*

Section 1. Without prejudice to autonomous regions, the territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and, barangays.

Section 2. The territorial and political subdivisions shall enjoy local autonomy, which shall be ensured by the State.

*[Author's Note: See the Constitution of Spain, section 140.]*

Section 3. The Congress shall strengthen the local government code, by, among others, devolving national government functions on basic services to local government units, and shall provide them with ample resources to deliver the same.

Where a law on local government eliminates a category of local government units or reduces the power of existing local governments, it shall not be effective unless it is approved in a national referendum called for that purpose, and it shall not vest in the national government those functions and powers already allocated to local governments without the concurrence of a majority of all the Members of Congress. Notwithstanding the preceding, the Congress may in every case suspend the function or powers of local government units when a compelling public need so demands.

Section 4. The President of the Philippines shall exercise general supervision over local governments. The Permanent Courts, on proper petition, and such other agencies as the local government code provides, shall ensure that the acts of local governments and their component units are within the scope of their prescribed powers and functions.

*[Author's Note: The changes in the provision are added to ensure that local autonomy is not rendered ineffective through an overly wide interpretation of regional autonomy.]*

Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

Section 6. Local government units shall have an equitable share in the national taxes and in the proceeds of the utilization and development of the national wealth within their respective areas, which shall be allocated and automatically released to them in accordance with the standards and method set in the local government code, which standards may provide the direct sharing of national wealth with the inhabitants by way of direct benefits. Laws and regulations, including appropriations laws, which are inconsistent with these standards, shall be invalid.

Any officer who, whether by negligence or intent, shall prevent or delay the release to local government units of their share in such revenues as may be allocated by law, shall be administratively liable. Until the Congress provides an appropriate penalty and unless it constitutes, under the circumstances, a more serious offense, such delay or prevention shall be deemed malversation of public funds.

*[Author's Note: The amendments proposed here are intended to give teeth to the provision for automatic allocation of revenue to LGU's, and to prevent them from being the subject of partisan blackmail. The last sentence in the 1<sup>st</sup> paragraph is added to provide for the contingencies mentioned therein.]*

Section 7. Local government units shall exercise prudence in the use of its resources, which shall be directed solely to the provision of basic services to their constituencies and the furtherance of their general welfare. Until the local government code subsequently provides otherwise, no more than thirty *per centum* (30%) of the revenues of a local government unit shall be appropriated for administration and salaries, except salaries to educators and other providers of basic services.

The national government shall not act as a guarantor for local governments except by Act of Congress and only with the concurrence of the independent central monetary authority.

Section 8. The term of office of elective local officials, shall be three years.

Section 9. No local government unit may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code and subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.

Section 10. Local government units may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them in accordance with law.

Section 11. The President shall provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region.

*B. Autonomous Regions:*

Section 12. Within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines, the Congress may create autonomous regions, from the present administrative regions, or from reasonably contiguous and culturally proximate geographical areas that possess a sufficient population and income for autonomy.

Section 13. The President shall exercise general supervision over autonomous regions. The Constitutional Court shall, in appropriate actions, ensure that laws are faithfully executed and resolve disputes between the national and regional governments. Other agencies shall exercise supervision or control, as the law expressly provides, on areas of State action vested in the National Government or exercised by the region as a deputy of the National Government.

Section 14. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

Section 15. Organic acts for autonomous regions shall define the basic structure of government for the regions consisting of the executive department and legislative assembly, the members of whom both of which shall be elected by direct and secret universal suffrage of the resident citizens; provided, that organic acts may provide for selection of the executive officer by the legislative body. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws.

The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographical areas voting favorably in such plebiscite shall be included in the autonomous region.

Section 16. Regional governments shall have a just share in the proceeds of the utilization and development of the national wealth within their respective areas, which shall be allocated and automatically released to them in accordance with the standards and methods set by law, which standards may provide the direct sharing of national wealth with the inhabitants by way of direct benefits. Laws and regulations, including appropriations laws, which are inconsistent with these standards, shall be invalid.

Section 17. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, autonomous regions shall provide for legislative powers over the:

1. Administrative organization of the regional government;
2. Creation of sources of revenues;
3. Ancestral domain and natural resources;
4. Personal, family, and property relations;

5. Regional urban and rural planning development;
6. Economic, social, and tourism development;
7. Educational policies;
8. Preservation and development of the cultural heritage;
9. Preservation of regional peace and order; and
10. Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

### **Article X: Accountability of Public Officers**

*[Author's Note: The proposed amended article is intended to create greater accountability on the part of government officers. To this end, it provides for an easier Congressional process of impeachment, adds impeachment by the Constitutional Court and election recall as additional modes of removal, and levels penalties for abuses of the process. The target of these changes is, of course, the recent failure of the impeachment complaint in the Lower House, which is intended to be rectified in sections 6 and 7 below.]*

Section 1. Public office is a public trust. Public officers and employees shall be accountable to the people; must serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives. All public officers and employees shall take an oath or affirmation to uphold and defend this Constitution.

Section 2. The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and, except to positions which are policy- determining, primarily confidential, or highly technical, by competitive examination.

Section 3.

1. No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign, except as provided under section 12(1) of this sub-article. This prohibition shall only apply to activities intended to promote the election to public office of a particular person, party or organization, and shall in no case justify the infringement of the freedom of expression, association, and assembly of civil servants
2. The minimum legal standards for conditions of employment that are applicable to employees in the private sector shall equally benefit the members of the civil service. The right to self-organization shall not be denied to government employees.
3. Temporary employees of the Government shall be given such protection as may be provided by law.

*[Author's Note: Paragraph 1, as amended, is intended to protect public officers from being punished by government should they express grievances or join in such expression and petition for redress. Paragraph 2 is added to prevent public officers from suffering inhumane conditions of work, as they are already suffering now, with massive cuts in their benefits accompanying immoderate spending by higher officers of government.]*

Section 4. No candidate who has lost in any election shall, within one year after such election, be appointed to any office in the Government or any government-owned or controlled corporations or in any of their subsidiaries.

No elective official shall be eligible for appointment or designation in any capacity to any public office or position during his tenure, unless otherwise allowed in this Constitution.

Unless otherwise allowed by law or by the primary functions of his position, no appointive official shall 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.

Section 5. The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

*[Author's Note: This is taken from article II of the 1987 Constitution.]*

Section 6. The right of the State to recover properties unlawfully acquired by public officials or employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel.

Section 7. No loan, guaranty, or other form of financial accommodation for any business purpose may be granted, directly or indirectly, by any government-owned or controlled bank or financial institution to the President, to the President, to the Members of the Cabinet, the Congress, the Supreme Court, and the Constitutional Commissions, or to any firm or entity in which they have controlling interest, during their tenure.

Section 8. A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.

Section 9. Public officers and employees owe the State and this Constitution allegiance at all times, and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law.

Section 10. Constitutional officers shall not be removed or suspended from office except for the grounds and in the manner provided under this Constitution.

Section 11. The President and the Members of the Supreme Court, the Judicial Commission, and the Constitutional Commissions other than the Corruption Commission, may be removed from office or otherwise disciplined, upon conviction on impeachment by the Constitutional Court; and the Members of the Constitutional Court and the Corruption Commission, on impeachment and conviction by Congress. Grounds for impeachment shall be culpable violation of the Constitution, incapacity to exercise the responsibilities of office, negligence of or misconduct in the exercise of official duties, and commission of acts constituting treason, graft, corruption, or crimes punishable by death, imprisonment exceeding six years, or equivalent penalties.

Section 12.

1. The Corruption Commission shall have the power to initiate all cases of judicial impeachment.

2. Any citizen or group of citizens may file a verified complaint for judicial impeachment, which shall be included in the agenda of the Commission within ten calendar days. The Commission may refer the Complaint to a Commissioner or a special division of three Commissioners within ten calendar days thereafter, to determine its sufficiency in form and substance and whether its charges have prima facie merit. The Commission or the special division, after hearing, shall submit its report to the Commission within sixty calendar days from such referral, together with the corresponding resolution. The Commission shall, in every case, decide upon the complaint within one hundred calendar days from receipt thereof.
3. If the Commission finds that the complaint is sufficient in form and substance, that its charges merit impeachment, and that there is reasonable cause to believe that the charge is valid, it shall immediately submit to the Constitutional Court the verified complaint and its written decision stating the penalty it recommends and the grounds for the same, which shall constitute the Articles of Impeachment.
4. The Constitutional Court shall have the sole power to try and decide all cases of Judicial impeachment, in accordance with the rules that it shall duly promulgate. The Court shall not be bound by the recommendations in the Articles; provided, however, that it shall not impose a penalty higher than that recommended in the Articles without the concurrence of at least two-thirds of its members; provided, furthermore, that no person shall be removed on judicial impeachment without the concurrence of at least two-thirds of the members of the Constitutional Court. The decision on the case and any abstention or dissent therefrom shall be in writing and shall state the legal and factual grounds therefor.
5. Upon the concurrence of at least two-thirds of all its Members, a Constitutional Commission may submit the Articles of Impeachment *motu proprio*, if, after conducting an investigation in accordance with its rules or receiving the findings of the investigation by another Constitutional Commission in accordance with its rules, it finds that impeachment is warranted. The Constitutional Court shall pronounce on the sufficiency in substance of the Articles within thirty days from their submission.
6. The Corruption Commission and the Constitutional Court shall promulgate their rules on impeachment to effectively carry out the purpose of this section. Such rules shall, until they are modified, be strictly complied with, and no change in the rules shall apply to an impeachment proceeding pending before it.

#### Section 13.

1. The Congress shall have the exclusive power to initiate, try, and decide all cases of Congressional impeachment.
2. A verified complaint for impeachment may be filed by any district Member of Congress, by any citizen upon a resolution of endorsement by any district Member thereof, or by a Constitutional Commission, which shall be included in the Order of Business within ten session days, and referred to a special Committee of District Representatives in Congress within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the Congress within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the Congress within ten session days from receipt thereof.
3. If at least a majority of all the District Representatives in Congress finds that the complaint is sufficient in form and substance, that its charges merit impeachment, and that there is reasonable cause to believe that the charge is valid, it shall affirm a favorable resolution on the Articles of Impeachment by the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

4. In case the verified complaint or resolution of impeachment is filed by at least a majority of all the District Representatives of Congress, the same shall constitute the Articles of Impeachment, and trial shall forthwith proceed.
5. The Regional Representatives of Congress, sitting as the Congressional Impeachment Court, shall have the sole power to try and decide all cases of Congressional impeachment. When sitting for that purpose, they shall be on oath or affirmation. The Vice President of the Philippines shall preside over the proceedings, but may not vote. They shall in no case participate in the proceedings for impeachment before the due approval of the Articles therefore.
6. The Congressional Impeachment Court shall not be bound by the recommendations in the Articles of Impeachment; provided, however, that it shall not impose a penalty higher than that recommended in the Articles without the concurrence of at least two-thirds of its members; provided, furthermore, that no person shall be removed on judicial impeachment without the concurrence of at least two-thirds of the Members of the Congressional Impeachment Court. The decision on the case and any abstention or dissent therefrom shall be in writing and shall state the legal and factual grounds therefor.
7. The Congress shall promulgate their rules on impeachment to effectively carry out the purpose of this section. Such rules shall, until they are modified, be strictly complied with. No change in the rules shall apply to a proceeding for impeachment after it is filed.
8. The substantive decision of the Congress punishing on impeachment the Members of the Constitutional Court shall not be subject to judicial review. However, the conduct of the Members of Congress on the impeachment complaint and their compliance with the procedure set in this Constitution and their rules may be reviewed and provide a basis for reversing or modifying the decision.

Section 5. Judgment in cases of impeachment shall not extend further than removal, disqualification from the present office, and, if expressly stated in the conviction, disqualification to hold any office under the Republic of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial and punishment according to law.

#### Section 6.

1. No impeachment proceeding shall be initiated against an official within one year after an impeachment proceeding was filed against him. Impeachment proceedings shall be deemed initiated thirty calendar days from the filing of a complaint that is sufficient in form and substance; or in case of Congressional impeachment by direct filing of the Articles of Impeachment or Judicial impeachment by the Corruption Commission *motu proprio*, fifteen calendar days from the filing of the Articles.
2. An impeachment complaint shall be deemed sufficient in form and substance if it is duly signed and verified by the complainant or at least a majority of the Members of complainant-body, and if it states the name of the officer charged, the designation of his offense under the Constitution, the acts or omissions complained of, the name of the complainant or the complainant-body and this concurring Members, and the approximate date and place of the commission of the offense; provided, that a mistake in the designation of the offense shall not affect the sufficiency of the complaint.
3. Amendments to the impeachment complaint may be filed, of right, any time within thirty days from its date of filing. When necessary to the interest of justice, and under such conditions as may be just, the Congressional Impeachment Court or the Constitutional Court may accept amendments in form to the complaint at any time before judgment. If it appears from the evidence at any time before judgment that a mistake has been made in charging the proper offense, the impeachment court may permit the corresponding amendment of the complaint.

*[Author's Note: The 1<sup>st</sup> paragraph in this section is adopted from the equivalent provisions of the 1987 Constitution, the 2<sup>nd</sup> from Rule 110, section 6 of the Rules of Court, and the 3<sup>rd</sup> paragraph, from Rule 110, section 14.]*

Section 7. The Members of Congress, the Constitutional Court, and the Corruption Commission shall be subject to the applicable laws and rules on judicial conduct; and any impropriety, including, but not limited to, corruption, abuse of authority, or undue influence to affect its outcome, may be judicially actionable, regardless of any immunity. The respondent-officer shall not seek to influence the outcome of the proceeding except by filing the appropriate pleadings; and any violation thereof shall subject the respondent-officer to criminal or other liability, regardless of any immunity that he may otherwise possess. An impeachment complaint terminated through unlawful influence or means shall not be deemed initiated.

Section 8. If the Congress, pursuant to its power to conduct investigations, finds by the concurrence of two-thirds of all its Members that an officer of the regional and local governments should be removed or otherwise disciplined, it shall transmit its resolution, together with its findings and such documents, affidavits, and other evidence as may prove the validity of the same, to the Constitutional Court, which may, after due notice and hearing and upon the concurrence of a majority of all its Members, order the removal or punishment of the officer concerned. Any recommendation by the Congress that is made for primarily political reasons shall be dismissed. The sentence, if any, shall not extend beyond removal or disqualification from the present office, and the Court shall not impose a punishment higher than that recommended; but the party convicted shall nevertheless be liable and subject to prosecution, trial and punishment according to law. The procedural requirements for impeachment shall apply, *mutatis mutandis*.

Section 9.

1. Recall of an elective National officer may be initiated by filing with the Commission on Elections a written petition alleging a reason for recall. A petition to recall the President must be signed by at least twelve per centum (12%) of the total number of registered voters who voted in the last general election. A petition to recall Regional or District Members of Congress must be signed by at least twelve per centum (12%) of the total number of registered voters who voted in the last general election within their respective Region or District.
2. If the petition filed with the Commission on Elections is not signed by the required number of registered voters, its proponents shall have one hundred twenty days from the date of its filing to submit the requisite signatures.
3. If the requisite number of signatures is obtained, the sufficiency of the reason contained in the written petition for recall shall not be subject to review by the Commission, the judiciary, or any other government body, and shall not constitute a valid basis to refuse due course to the recall petition.
4. The proper Constitutional Commission may, if requested in the duly signed petition or by the officer sought to be recalled, conduct an investigation on the reason for recall and publish its conclusions thereon within one hundred twenty days from the date of filing of the petition for recall.

Section 10. An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Commission on Elections and held not less than sixty days nor more than ninety days from the date of certification of sufficient signatures.

A recall election may be conducted within one hundred eighty days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if

the number of voters eligible to vote at that next regularly scheduled election equal at least fifty percent of all the voters eligible to vote at the recall election.

If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor.

Section 11. The Congress shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election.

Section 12. An officer who is not recalled shall be reimbursed, in accordance with law, for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against an officer until one year after his election, initiation being deemed to be fifteen days from filing.

*[Author's Note: The provisions on recall are adapted from the State Constitution of California (art. 2, secs. 14-20). Their addition is intended to canalize popular activism and discontent into Constitutional channels. In effect, the recall provisions institutionalize 'people power'.]*

## **Article XI: Economic and Social Policy**

*[Author's Note: This article merges articles XII and XIII of the 1987 Constitution, and includes certain provisions of article II of the 1987 Constitution, for the purpose of logical clarity and force. Quite simply, these provisions are so numerous, so badly arranged, and so scattered throughout the 1987 charter that they were liable to be ignored, if noticed at all. Hence, those provisions that were redundant, merely declaratory, or otherwise superfluous were reworded, removed or merged with other sections, and those retained were re-arranged, with, social, economic, and cultural provisions grouped together in that order.]*

Section 1. The State shall adopt sound economic policies whose goals shall be full employment, a more balanced distribution of opportunities, income, and wealth, a sustained increase in the amount of goods and services produced by the nation, and the improvement of the quality of life for all, especially the underprivileged.

The State shall promote the general good in all phases of national development. It shall enact measures that protect and enhance human liberty and dignity, reduce inequalities of opportunity and promote a more balanced distribution of wealth, and create social and economic opportunities based on freedom of initiative and self-reliance.

Section 2. The State shall protect freedom of private enterprise as the foundation of economic development, and economic development as the foundation of full employment and improved quality of life. It shall not assume proprietary activities, or impose regulatory norms or charges on economic activity, except to the extent directly necessary, if at all, to achieve a compelling public need.

*[Author's Note: This and the next provision is intended to make the fostering of private initiative and a free economy an important economic goal.]*

Section 3. The State shall protect and provide incentives to private initiative. The right of private individuals and associations to the fruits of their labor and investment, the right to hold and to distribute income, and the right to transmit one's property to one's family, shall not be unduly infringed. The State shall protect and secure the exclusive rights of scientists, inventors, artists, and creators to their intellectual property and creations, consistent with the general good and applicable norms of international law.

*[Author's Note: The last clause is added to second sentence to bring the provision in explicit accord with applicable treaties on intellectual property rights, such as, among many others, the Berne Convention and the WTO Agreement on Trade-Related Aspects of International Property Rights (the TRIPS Agreement).]*

Section 4. All lands of the public domain, public waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, and other natural resources shall be administered by the State in trust for the people. Unless otherwise defined by Congress, lands of the public domain are classified into agricultural, forest or timber, mineral lands and national parks. With the exception of agricultural lands, all other natural resources shall not be alienated.

The exploration, development, and utilization of natural resources shall be under the supervision of the State. The State shall, as appropriate, bid out the privilege of undertaking such activities to private entities under co-production, joint venture, concession, or production-sharing arrangements beneficial to the nation under terms and conditions provided by law. The preservation of the environment and the maintenance of a healthful and balanced ecosystem shall be a prime consideration in all such arrangements.

The President shall notify Congress of every contract entered into in accordance with this provision, within thirty days from its execution.

*[Author's Note: Note that the provision no longer enacts the old Regalian doctrine under which the State owns natural resources, but rather holds to a doctrine of State stewardship, in conformity with the policy emphasis on the priority of private rights and the mere delegated nature of State power.]*

Section 5. Lands of the public domain are classified into agricultural, forest or timber, mineral lands, and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease. Citizens of the Philippines may lease or acquire alienable lands of the public domain by purchase, homestead, or grant.

Section 6. The Congress shall, as soon as possible, determine by law the specific limits of forest lands and national parks, marking clearly their boundaries on the ground. Thereafter, such forest lands and national parks shall be conserved and may not be increased nor diminished, except by law. The Congress shall provide, for such period as it may determine, measures to prohibit logging in endangered forests and watershed areas.

Section 7. The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.

The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

Section 8. The Congress may establish an independent economic and planning agency headed by the President, which shall, after consultations with the appropriate public agencies, various private sectors, and local government units, recommend to Congress, and implement continuing integrated and coordinated programs and policies for national development.

Section 9. The State shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities.

Section 10. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the general good so requires. The State shall encourage equity participation in public utilities by the general public.

Section 11. 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 direct or take over the operation of any privately owned public utility or business affected with public interest.

Section 12. The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions. It shall be subject only to review by the Permanent Courts on petition for certiorari. It shall have fiscal autonomy, and it shall appoint and supervise its personnel, in accordance with Civil Service laws and regulations.

Section 13. The State shall promote the welfare of workers, full employment and equality of employment opportunities. It shall afford all necessary protection to labor, local and overseas, organized and unorganized. It shall protect the rights of all workers to self- organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall ensure their mutual compliance therewith to foster industrial peace.

Section 14. The State shall protect and promote the health of the people and shall guarantee adequate provisions for public health. It shall ensure the widest possible coverage for private and public health care, and shall encourage private medical programs through appropriate incentives and assistance. There shall be ample provisions for the needs of the under-privileged sick, the elderly, the disabled, pregnant women, and children.

Section 15. The State shall protect and advance the right of the people to a balanced and healthful ecology.

Section 16. The State shall ensure the fundamental equality before the law of women and men.

Section 17. The State recognizes the inviolability of the family as the foundation of society, and of marriage as the foundation of the family, with preemptory rights and duties prior and superior to positive law. Accordingly, it shall strengthen their solidarity and recognize their autonomy.

*[Author's Note: The section merges sections 1 and 2 of article V of the 1987 charter. It is reworded in accordance with the Universal Declaration of Human Rights (art. 16), the International Covenant on Civil and Political Rights (arts. 23) and other treaties, and the Constitutions of Germany (art. 6) and Ireland (art. 41).]*

Section 18. The State shall ensure the equality in rights and responsibilities of husband and wife as to marriage, during marriage and at its dissolution.

*[Author's Note: The section is adapted from the Universal Declaration of Human Rights (art. 16), the International Covenant on Civil and Political Rights (arts. 23).]*

Section 19. Every child regardless of parentage, and every parent regardless of marital status, shall be equally protected by law. Every child shall have the right to a name and a nationality.

*[Author's Note: See the Universal Declaration of Human Rights (art 25), the International Convention on Civil and Political Rights (art. 24), and the Constitution of Spain (sec. 39).]*

Section 20. The State shall protect and promote the right of all citizens to quality education at all levels, and take appropriate steps to make such education accessible to all. It shall establish and support an adequate, and integrated system of education relevant to the needs of the people and society; and encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs. The State shall assign the highest budgetary priority to education.

Section 21. The State shall recognize the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

Section 22.

1. 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. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.
2. Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment.
3. Subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax.

Section 23. Academic freedom shall be enjoyed in all institutions of higher learning. Every citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements.

Section 24. The State shall promote research and development in science and technology and ensure the application of scientific innovation to the promotion of public health and welfare and to industrial and agricultural development and the production of goods and services. The Congress may provide for incentives, including tax deductions, to encourage private research and invention, and promote the transfer and adaptation of technology from all sources for social and economic benefit.

Section 22. The State shall conserve and promote the nation's historical and cultural heritage and resources, as well as artistic creations. It shall, by law, regulate the country's artistic and historic wealth.

Section 25. The official languages of the Philippines for communication and instruction shall be Filipino and English.

## **Article XII: General Provisions**

Section 1. The flag of the Philippines shall be red, white, and blue, with a sun and three stars, as consecrated and honored by the people and recognized by law.

Section 2. The Congress may, by law, adopt a new name for the country, a new flag, a national anthem, or a national seal, which shall all be reflective and symbolic of the ideals, history, and traditions of the people. Such law shall take effect only upon its ratification by the people in a national referendum.

Section 3. The State may not be sued without its consent.

Section 4. The Armed Forces of the Philippines shall be composed of a citizen armed force which shall undergo military training and serve, as may be provided by law. It shall keep a regular force necessary for the security of the State.

Section 5.

1. All members of the armed forces shall take an oath or affirmation to uphold and defend this Constitution
2. Professionalism in the armed forces and adequate remuneration and benefits of its members shall be a prime concern of the State. The armed forces shall be insulated from partisan politics. No member of the military shall engage directly or indirectly in any partisan political activity, except to vote.
3. No member of the armed forces in the active service shall, at any time, be appointed or designated in any capacity to a civilian position in the Government including government-owned or controlled corporations or any of their subsidiaries.
4. Laws on retirement of military officers shall not allow extension of their service.
5. The tour of duty of the Chief of Staff of the armed forces shall not exceed three years. However, in times of war or other national emergency declared by the Congress, the President may extend such tour of duty.

Section 6. The State shall establish and maintain one police force, which shall be national in scope and civilian in character, to be administered and controlled by a national police commission. The authority of local executives over the police units in their jurisdiction shall be provided by law.

Section 7. The State shall provide immediate and adequate care, benefits, and other forms of assistance to war veterans and veterans of military campaigns, their surviving spouses and orphans.

Section 8. This Constitution shall be promulgated in Filipino and English and shall be translated into the major regional languages, Arabic, Spanish, and Mandarin. Its Filipino and English drafts shall both be authoritative, and any conflict between them shall be resolved by recourse to the English draft.

*[Author's Note: Note the absence of an explicit statement in the 1987 Constitution as to the governing draft in case of conflicts in interpretation. This is rectified here.]*

## **Article XIII: Amendments and Revisions**

*[Author's Note: The amendment process is more clearly fleshed out in this proposed article, to prevent undue conflict regarding its conduct and to preclude abuses regarding its exercise, as chronicled in such monumental cases as Javellana v. Executive Secretary.]*

Section 1. An amendment or revision of this Constitution may be proposed by a constitutional convention called by Congress, through a resolution passed by two-thirds of all its Members; or by Congress, through a resolution passed by three-fourths of all its Members.

Section 2. The members of the Constitutional Convention shall be simultaneously elected in a general election called for that purpose. The Convention shall approve its rules and elect its officers, and shall otherwise have the sole purpose and power of proposing amendments to or a revision of the Constitution. It shall subsist for the period set by Congress or, in default thereof, such period as the Convention may set, but in no case longer than twelve months after the simultaneous election of the delegates thereto, nor after the approval of its proposal. In relation to the other organs of government, the Convention shall have the character of a special Constitutional Commission. Its procedures and conduct shall be subject to review by the Constitutional Court alone, but the amendments or revision it may propose shall in no case be subject to review, except in relation to compliance with this article.

*[Author's Note: The express statement of the powers of the Convention and its limitation is made to prevent disputes as to its standing vis-à-vis Constitutional organs, and to prevent the extra-constitutional use of the Convention as a super-legislature, as was done with Venezuela's National Constituent Assembly by President Hugo Chavez. The section effectively codified the Frantz doctrine on the status of the Convention, as well as the demarcation of justiciability that was made by the Javellana majority as well as by the Court in Sanidad v. Comelec.]*

Section 3. The Constitutional Convention shall not propose any amendment to or revision of the Constitution without its approval by two-thirds of all its members; provided that, it shall approve a definitive proposal for ratification only once, constituting the entire Constitution as amended or revised with the changes conspicuously marked. It shall in no case be bound by any instruction from Congress or any other organ of government in determining what amendments or revision to propose.

The approval of the proposal shall be complete upon its receipt by the Commission on Elections, upon which the Convention shall be deemed terminated. The Congress, or in default thereof, the Commission on Elections, shall duly promulgate the proposed Constitution as amended or revised within fifteen days from the approval thereof.

Section 4. The Congress shall formally consider amendments to or revision of the Constitution upon a motion by a Member duly seconded and concurred in by a majority of all its Members, whereupon it shall be constituted into a Constitutional Assembly. The Congress shall sit as a Constitutional Assembly until it submits to the Commission on Elections a formal proposal, and in no case longer than four months after the second vote.

The Congress as a Constitutional Assembly shall be similarly bound to submit only one proposal comprising the entire Constitution as amended or revised with the changes conspicuously marked. Its conformity with procedural requirements, as well as its finding that proposal by Congress is necessary pursuant to treaty or public need, may be reviewed by the Constitutional Court on petition for certiorari; but the substantive content of the proposal shall be beyond judicial review.

Section 5. No Constitutional Convention shall be called within four years, or a Constitutional Assembly constituted within one year, after a Convention was called or an Assembly constituted.

Section 6. The Commission on Elections shall call for a plebiscite on the proposed amendments or revision to be held not earlier than sixty days nor later than ninety days after the approval of the proposed

amendments or revision. The entire Constitution as amended or revised shall be voted upon. The plebiscite shall be a special national holiday and shall be conducted by secret ballot, and its conduct and counting shall be in accordance with the safeguards provided for elections under this Constitution and under applicable laws. The right to participate in it shall extend to all and only citizens entitled to vote under article IV of this Constitution.

The amended or revised Constitution shall be valid only if after it is ratified by a majority of the votes cast in the plebiscite thereon. The counting of the votes shall be completed within thirty days after the date of the plebiscite, and the Commission on Elections *en banc* shall proclaim the result within five days thereafter.

Section 7. A verified petition questioning the result of the plebiscite, solely for non-substantive grounds relating to the conduct of the proposal, the voting or the canvassing, may be filed with the Constitutional Court within fifteen days after the proclamation, which must promulgate its decision within thirty days after the filing. The Constitutional Court *en banc* may affirm the proclamation; conduct or order a recount, which shall be completed within thirty days after the Court promulgates its decision; or, by the vote of two-thirds of all its members, declare the failure of the plebiscite, and order a new one held not earlier than sixty days nor later than ninety days after the promulgation of the decision.

Section 8. The proposed amendments or revision shall take effect upon the lapse of the period to assail it. If it is duly assailed, these shall be effective fifteen days after the promulgation of the decision of the Constitutional Court proclaims its ratification, or of the proclamation of the results of the recount or of the new plebiscite. The fifteen day period in the preceding sentence may be modified in the proposed amendments or revision or in the resolution of the Constitutional Convention approving them.

Section 9. No amendments to or revision of this Constitution shall be made except in strict accordance with this article.

#### **Article XIV: Transitory Provisions**

Section 1. A general election for the election of the President, the Members of Congress, and elective regional and local officials under this Constitution shall be held on the first Monday of the fourth month after the effectivity of this Constitution, unless the Congress elected under the 1987 charter sets an earlier date. Their term in office shall begin as set under this Constitution, upon which the incumbents shall be deemed to have vacated their office.

Section 2. All existing laws, decrees, executive orders, proclamations, letters of instructions, and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed, or revoked. The 1987 Constitution shall be deemed repealed *in toto*; provided that, its provisions relating to nationality prohibitions, the ownership and operation of public utilities, mass media, advertising, educational institutions, and the exploration and utilization of natural resources, shall remain in effect unless otherwise amended or repealed by Congress.

Section 3. All existing treaties, as defined under this Constitution, which have not been ratified shall not be renewed or extended except in accordance with the procedure set in article V of this Constitution.

Section 4.

1. The first Congress elected under this Constitution shall enact an enabling law re-organizing the government to effect the structural changes mandated by this Constitution. It shall provide for

the termination of its effectivity, which shall in every case be within two years after its enactment.

2. The Commission on Audit shall, within the first two years from the effectivity of this Constitution, submit a performance, financial and legal audit of all government offices, agencies, and instrumentalities, including government-owned-and-controlled-corporations, in furtherance of the mandate of this Constitution, especially article XII thereof. Upon the submission of its report, and in compliance with article XII, the first Congress shall enact a re-organization law to be implemented by the Civil Service Commission and/or the Commission on Audit subject to recommendations by the President and such guidelines and duration as may be provided by law.
3. Career civil service employees in the agencies affected shall have priority in the selection of personnel for equivalent positions in the successor agencies, unless they choose to be reassigned to other agencies or instrumentalities where their skills may be used without diminution in rank, salary, or seniority. If either is not possible, they may be separated from government, with such separation pay and retirement and other benefits as may accrue to them under the general laws in force at the time of their separation or at the time this Constitution would take effect, whichever may be more favorable. They shall thereafter have priority in hiring for appropriate government positions in the Government or in any of its subdivisions, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries.
4. The Congress shall provide for the allocation of resources and facilities to the offices created under this Constitution or the re-organization law. All properties, records, equipment, buildings, facilities, and other assets of any office or body abolished or reorganized shall be transferred by law to the office or body to which its powers, functions, and responsibilities substantially pertain.

Section 5. All courts existing at the time of the ratification of this Constitution shall continue to exercise their jurisdiction, until otherwise provided by law, and the incumbent members of the lower courts shall continue in office until they reach the age of seventy years or become incapacitated to discharge the duties of their office or are removed for cause. The provisions of the existing Rules of Court, judiciary acts, and procedural laws not inconsistent with this Constitution shall remain operative unless amended or repealed by the Judicial Commission - or the Congress.

Section 6. The Judicial Commission shall, within one year after it is deemed created, adopt a systematic plan to expedite the decision or resolution of cases or matters pending in the Supreme Court or the lower courts prior to the effectivity of this Constitution. A similar plan shall be adopted for all special courts and quasi-judicial bodies.

Section 7. The Constitutional Court, the Judicial Commission, the Anti-Graft and Corruption Commission, the Rights Enforcement Commission, and the offices of the Government Ombudsmen shall be deemed created, and the Office of the Ombudsman, the Judicial and Bar Council, the Commission on Human Rights shall be deemed dissolved, one year after this Constitution takes effect.

The Supreme Court shall continue to exercise those functions transferred hereunder to the Judicial Commission and the Constitutional Court, until a majority of the members of each body shall have been appointed; and for the purpose of appointments to the Judiciary and the Constitutional Commissions, the Judicial and Bar Council shall exercise the functions of the Judicial Commission until the former is deemed dissolved.

Section 8. Unless they are sooner removed for cause or resign or become incapacitated to discharge the duties of their office, the incumbent Members of the Civil Service Commission, the Commission on Elections, the Office of the Ombudsman, the Judicial and Bar Council, the Commission on Human Rights, and the Commission on Audit, shall be deemed resigned one year after the effectivity of this Constitution.

All the appointive members of the bodies with staggered terms under this Constitution, shall be deemed first appointed one year after this Constitution takes effect. The Commissioners or Associate Justices who are the most senior in date of appointment or, if the dates are the same, in age, shall serve the longest, and the most junior, the shortest.

On the same date, the seven most senior Justices of the Supreme Court shall be deemed appointed to the Constitutional Court, with the more senior Justices serving the shorter terms and the Members choosing from among themselves the first Chancellor. The eight most junior Justices of the Supreme Court shall remain Members of the Supreme Court under this Constitution, with the more junior Justices serving the shorter terms and the most senior Justice serving as Chief Justice under this Constitution.

Section 9. This Constitution shall take effect fifteen days after the proclamation of its ratification by a majority of the votes cast in a plebiscite held for the purpose and shall supersede all previous Constitutions.

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