



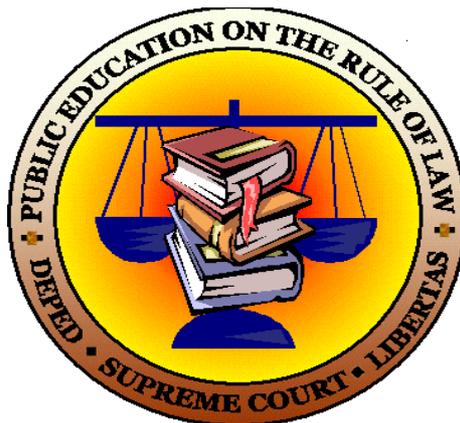
LIVING BY THE RULE OF LAW

A Handbook for High School Teachers and Students

By

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**For the Supreme Court, the Department of Education, and
The United Nations Development Programme**

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Introduction

This manual consists of five books. **Book One** contains fundamental concepts on the Law and the Rule of Law in the Philippines. It also includes a presentation of the history of the law and the development of legal structures in the Philippines. **Book One** is intended for *First Year* high school students.

Books Two to Four, which are intended for *Second Year* to *Fourth Year* high school students, respectively, contain more in-depth explanations on the basic tenets comprising the Rule of Law in the Philippine setting. These books describe the interrelationship among the various actors and elements in the justice system – the State, government institutions and agencies, and the people – and the roles they play in establishing and maintaining the Rule of Law.

Examples based on the students' general experience and exposure are given in **Books One** through **Four**. These show the application of the Rule of Law in the students' everyday lives. Questions are posed to the students, but precise objective answers are not to be demanded from them. Rather, the questions are intended to evoke deeper thought on the subject, and to crystallize principles learned from the lessons. The questions may be answered by the students during class discussion, or may serve as homework, at the discretion of the teacher.

Book Five applies to *all* year levels and contains core messages or value propositions to deepen the students' learning. Book Five can be read by the students in all year levels towards the end of the school year, as they conclude reading the particular Book for their year level. This exercise is meant to synthesize their study of the values learned from reading the manual.

It is our hope that the students will be inspired by this handbook to live by the Rule of Law– now, even while they are still students, and more especially when they become adults, so that they may become responsible and productive citizens, and secure to themselves the auspices of a regime of law.

The Author

For Dana and all her playmates, that they may enjoy the fruits of peace and prosperity that a regime of law promises.

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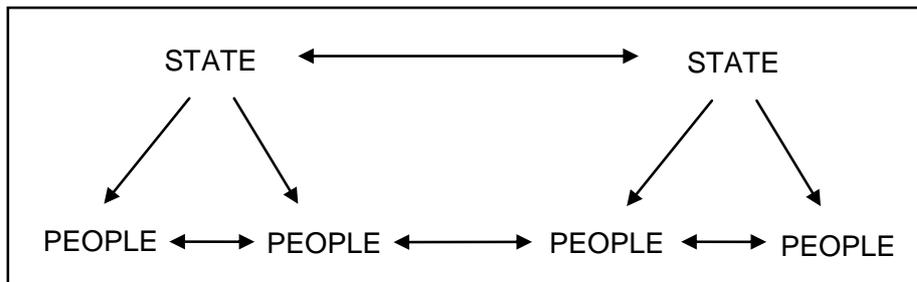
BOOK ONE
(For First Year High School)

***BASIC CONCEPTS, HISTORY,
GENERAL CLASSIFICATIONS, AND FORMS OF LAW***

Lesson 1

What is the Law?

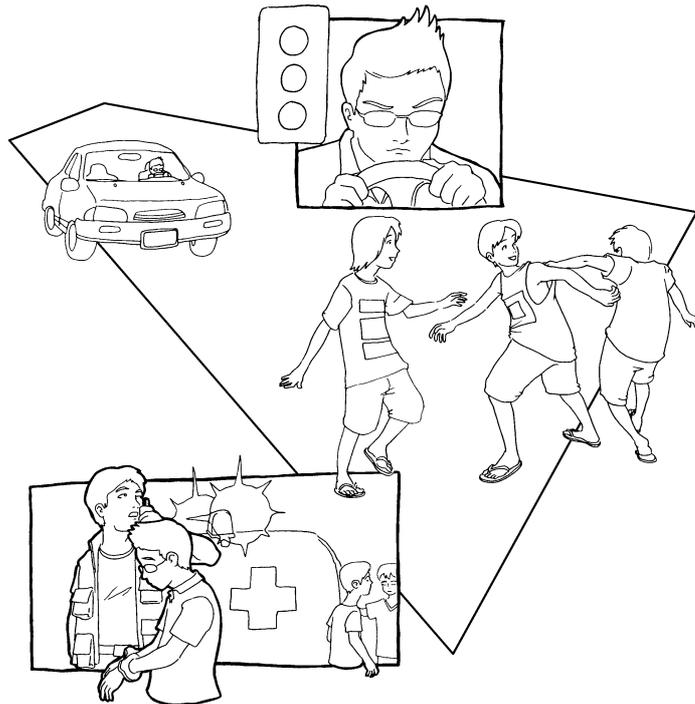
The **Law**, in its general sense, is that set of rules laid down by the **State** which must be observed by everyone. The law governs the relations between the State and its people, the relations among people, and the relations among States.



The law establishes the rights and obligations of the people who are governed by it, as well as the duties of the State and the **Government** to the people. The law also lays down the remedies that a person can avail of, if his rights are violated. The law further prescribes the procedure which a person must observe when enforcing his rights, and which the State must likewise follow in taking any action against a person.

Once the law has been laid down, it is implemented by the **Government**, an instrument through which the State acts.

Everyone is expected to know what the law is, because it prescribes what can and cannot be done, and the consequences if the law is not observed.



Violation of the law will have consequences

Generally, a law is prescribed to govern *future* conduct. When the law has a *prospective* application, this means that it will only apply to *future* actions. A law generally cannot have a *retroactive* effect, that is, the law should not apply to *past* actions, because the people then could not have known about the rule yet to be established.

Law is a norm of human conduct in social life, established by a sovereign organization and imposed for the compulsory observance of all.

Ruggiero (cited in Vol I., A. Tolentino, Civil Code of the Philippines, Commentaries and Jurisprudence with the Family Code of the Philippines 1 (1990))

Therefore, the characteristics of law are:

1. It is a rule of human conduct
2. It is prescribed by competent authority
3. It is obligatory, and
4. It is to be observed by everyone

Application:

At the start of classes each year, the teacher explains the grading system for the particular subject she teaches. The teacher adopts the following grading system:

10%	Attendance
10%	Department
10%	Class participation
20%	Quizzes
25%	Midterm exams
<u>25%</u>	Final exams
100%	Total

This enables the pupils to know in advance how their class performance will be graded. The rule is applied to all the students. Because the teacher advises the students about the grading system in advance, the students are able to compute their final grade easily, based on the given criteria.

The teacher likewise cites specific forms of behavior that are unacceptable in class, such as eating inside the classroom, being disrespectful, cheating, or making noise during class hours. If a student commits any of these acts, points will be deducted from his or her grade in department. On the other hand, the student who obtains the highest grade in department will be given an award at the end of the year.

Points to Ponder on:

1. *Would you rather know the class rules in advance, or get information about the rules for computing the final grade, midway through the second grading period?*

2. *Would you like to know what behavior is expected of you in school at the start of each schoolyear, or would you agree to be punished as you commit offenses, which you may not know to be unacceptable?*
3. *Why is it important to know the rules governing your conduct in advance?*

Enrichment Exercise:

Do your parents or elders have rules for you at home?

What are these rules?

What are the reasons for these rules?

Please share them with your seatmates during the next meeting.

Lesson 2

What is the Rule of Law?

The Rule of Law means that the basis for the governance by the State over its constituents is the law applied equally to all. This means that there should be no deviation from what the law imposes.

The principle of the Rule of Law is distinguished from the concept of the Rule of Man. The Rule of Man relates to an era when monarchies, through individuals, reigned supreme over a nation. In the olden times, the monarch, who was the supreme ruler, could make the laws by himself, and could change it or its application in his sole discretion. Being the rule of one individual, the Rule of Man is based on personal emotion, logic, understanding, perception, bias, and wisdom, which varies among individuals. If the Rule of Man is used in governing society, there will be different results even for the same situations, because of these varying personal factors.

Application:

At the start of the schoolyear, the teacher explained that no student who has a grade in department lower than 85% may vie for First Honors, even if the student's average may be more than 90%. The teacher also explained that students will get deductions from their grade in department if they commit any infraction of the school rules.

Two students were found cheating in one subject during the midterm exams: one was the class topnotcher who was undoubtedly studious, but wanted to make sure she got high grades to remain number one in class. The other was a student who was failing in class who wanted to be sure of passing the exam.

Both students received a grade of 74% in department. Consequently, the class topnotcher was disqualified from the Honor Roll.

Points to Ponder on:

1. *Do the reasons of the two students for cheating justify their action?*
2. *Why did the teacher give both students a grade of 74% for department?*
3. *Is the rule of the teacher fair? Why or why not?*
4. *Should the teacher have been more considerate towards the class topnotcher because she was really bright in class anyway?*
5. *Would it have been fair for the teacher to give the class topnotcher a grade of 85% in department so she could remain in the Honor Roll, while the other student is given a grade of 74%?*
6. *If there was no rule disqualifying a student from vying for First Honors if she received a grade lower than 85% for department, would it be acceptable for the teacher to decide, on her own, whether or not to allow the topnotcher to qualify for the First Honors? Why or why not?*
7. *Distinguish between the Rule of Law and the Rule of Man.*

Enrichment Exercise:

Do you know of any situation similar to the above example which happened in your family or community? What is this situation? Do you think that what happened was fair? Why or why not?

If you cannot think of any similar example, cite your own experience when you violated a rule imposed by your parents, elders, or the school authorities, and the consequences of your actions. Do you think that what happened was fair? Why or why not?

Please share this with your seatmates during the next meeting.

Lesson 3

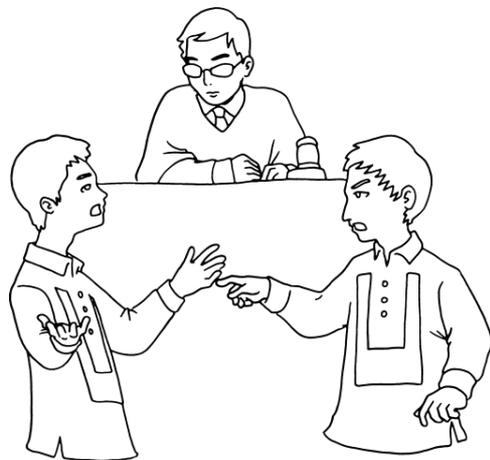
What is the importance of the Rule of Law?

The Rule of Law is important to the State because it instructs the various organs of Government how to operate and how to implement the law. The government officials will know exactly how to handle the problems presented to them by referring to the law. They will not decide the matters presented to them using their varying personal judgment.

Moreover, a regime of law will assure the people that the State will not abuse the citizens of using its vast powers and resources.

On the other hand, the Rule of Law is important to the citizens so they will know in advance the consequences of their action if they disobey the law.

Moreover, the people will know what their rights are and their remedies under the law, if these rights are violated by the State or by other people. They will know how to go about the justice system so their grievances can be properly ventilated and addressed.



If the law is applied equally to all, people will have respect for the law and the Government. They will be more inclined to follow the law because they will realize that they cannot escape punishment and the consequences of their action. They will observe their obligations and perform their duties to the Government the State, and others, fostering trust. People will strive in their undertakings because they know that their rights are respected and that their efforts will be rewarded. In short, people will be more responsible and respectful towards each other, promoting stability, peace, and order in society.

However, if the Rule of Law is not observed and instead, the capricious discretion of man is followed, people will distrust the Government and the justice system. In such a case, people will avoid their obligations and abandon their responsibilities. They will wrongly feel

that it would be acceptable not to honor their obligations and observe their duties, because they will not be punished for it anyway. There will be disarray in the relations among people, and the relations of citizens with the State.

In the end, a society flourishes under the Rule of Law because people feel a sense of fairness and security in their society. If the people feel secure because their rights are protected, and if they see that the law is applied equally to everyone, they will be more productive. The quality of life will then become better for all.



Application:

First example: In a certain company, the conduct which the employer requires its employees to observe is explained in the Employee's Handbook. For instance, an employee should not be late for work for more than three instances in a given calendar month. Otherwise, when an employee is late for a fourth time, he will get a salary deduction. All the employees strive to come to work on time because they do not want deductions from their salary. Attendance is monitored by requiring the employees to punch attendance cards into the company bundy clock. This system is observed by all the employees. This is how they are motivated to come to work on time and to work efficiently.

Second example: Consider another case where the employees' attendance is monitored and recorded by an individual - a timekeeper. Some of the employees have befriended the timekeeper. Because of this, the employees are able to persuade him to record in the attendance sheet that they arrive in the office on time, when in fact, they are late. Hence, these employees no longer feel the need to report for work on time, since the timekeeper will take care of their attendance anyway. These employees no longer exert any effort to be prompt in reporting to the office. On the other hand, the rest of the employees, who are usually punctual, feel demoralized. They feel that their efforts in coming to work

early are useless, since the other employees are able to go around the attendance monitoring system. Hence, they gradually lose interest in coming to work early. Instead, they try to befriend the timekeeper so that they, too, could cheat in their attendance. Eventually, the productivity of most of the employees goes down, the profits of the company decline, and the company downsizes by laying-off employees.

Points to Ponder on:

- 1. Why do the employees in the first example come to work on time?*
- 2. Why is it important for the employees in the first example that the company's bundy clock system applies equally to all?*
- 3. In the second example, how did some of the employees cheat in their attendance? Did they use the Rule of Law or the Rule of Man?*
- 4. As you have seen in the above examples, why is it important to be governed using the Rule of Law rather than the Rule of Man?*
- 5. Based on these examples, what are the benefits from abiding by the Rule of Law? What are the negative effects of disregarding the Rule of Law?*
- 6. If the law is applied arbitrarily, what will be the result?*
- 7. Based on the examples above, what do you think are some of the core principles of the Rule of Law?*

Lesson 4

The State: Definition and Attributes

*A **State** is an association of human beings occupying a definite territory, permanently organized for political ends. A state is a sovereign political unity.*

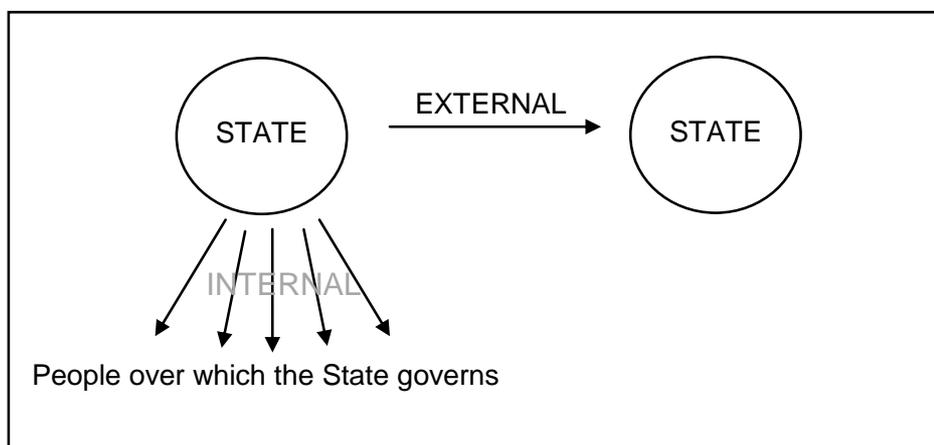
G. Wilson and G. Tucker, International Law (9th ed., 1935)

The ends for which a State is organized include independence; the welfare of its inhabitants; peace, order, prosperity; and good relations with citizens of other states.

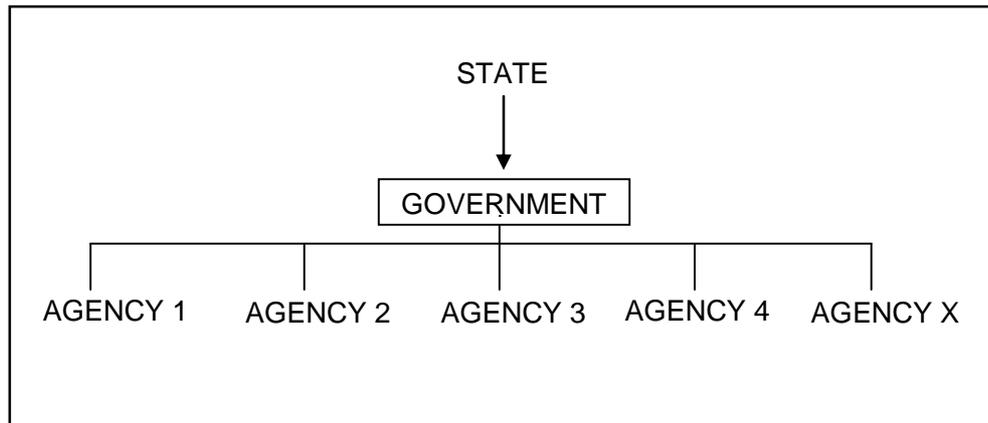
The human beings receiving the benevolence of the State and who owe allegiance to the State are called its **citizens**.

One of the attributes of a State is **sovereignty**, which is used in two meanings: in the *external* sense, it means that a State is not subject to the will, control, or governance of another State. In the *internal* sense, sovereignty refers to the exercise by the State of its authority over the people it governs.

In a related manner, the functions of a State can be classified as *external* and *internal*. For the external function, a State strives to protect its inhabitants from foreign aggression. It also fosters harmonious relations with other States. For the internal function, a State maintains peace and order among the inhabitants in its territory.



The instrument by which the State implements its will is the **Government**. It is an institution composed of different organs performing distinct but interrelated functions for the unified objective of managing the affairs of the State.



The types of government according to the body which rules the State are **monarchy, aristocracy, and democracy**. A *monarchy* is one led by a single ruler or individual. An *aristocracy* is one where a group of people, usually from the highest social class, govern. A *democracy* is one where, in principle, the general population manages the State.

Another manner of classifying governments is the method by which the head of State is selected and maintained: the **presidential form**, the **parliamentary form**, and a **dictatorship**. The *president* is selected through the popular vote of the people, and he serves for a definite period. On the other hand, the *prime minister* in a parliamentary form of government is selected by the ruling party in the legislature from among its members. The *prime minister* continues in office so long as he enjoys the confidence of such ruling party. Finally, a *dictatorship* refers to the absolute rule by a leadership unlimited by law and structures. Dictators hardly ever come to power by democratic means. They are often installed through a revolution, *coup d'état*, or other form of violence. Often, dictators justify their continued grip onto power due to some emergency, real or imagined, and do not relinquish such power even if such emergency ceases.

Points to Ponder on:

1. *Why do the inhabitants of a territory need the protection of an organization such as the State?*
2. *Why is it important that citizens acknowledge their allegiance to the State?*
3. *What does sovereignty mean?*
4. *Why must a State resist foreign aggression?*
5. *Why does a State need to exercise authority over its citizens?*
6. *What is meant by "Government?"*
7. *Is the Philippines a monarchy, an aristocracy, or a democracy?*
8. *What type of government does the Philippines have: a presidential form, a parliamentary form, or a dictatorship?*

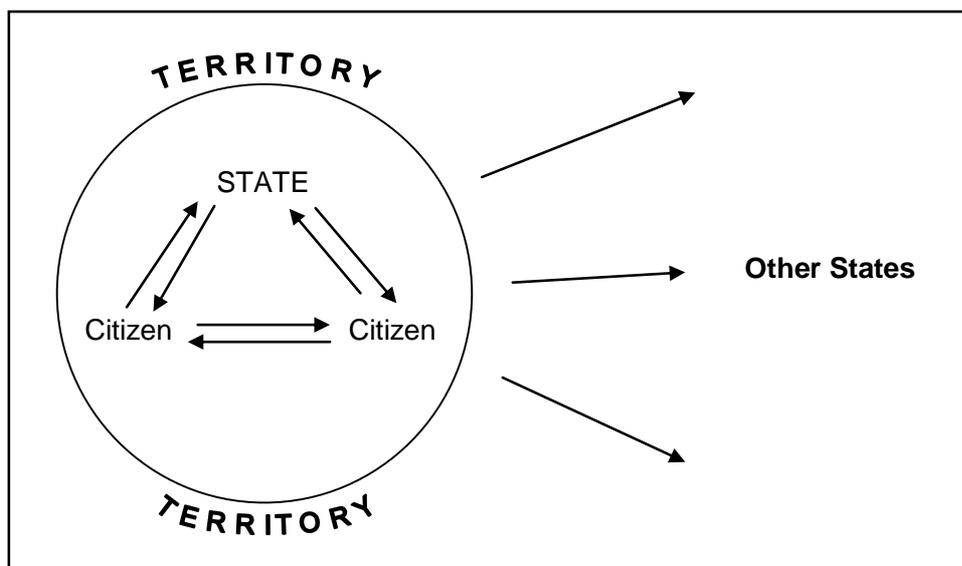
Enrichment Exercise:

Your teacher will divide you into three groups. The class will research and write short skits about the presidential (group 1), parliamentary (group 2), and dictatorial (group 3) forms of government. Your skit should show details and scenes about the form of government assigned to you. The skits should be presented in class a week after they have been assigned.

Lesson 5

The Functions of the State

The State owes its existence to the people that comprise it. In turn, a State exists (1) to protect the integrity of its territory, and its citizens, from foreign aggression; (2) to compel observance by the citizens of standards for the exercise of citizens' rights in relation to the State; and (3) to regulate the conduct of its citizens in their relations with each other. In the end, the over-arching objective of the State is to promote the welfare of its citizens.



The basic purpose of a State, namely to assure the happiness and welfare of its citizens is kept foremost in mind. To paraphrase Laski, it is not an end in itself but only a means to an end, the individuals composing it in their separate and identifiable capacities having rights which must be respected. It is their happiness then, and not its interest, that is the criterion by which its behavior is to be judged; and it is their welfare, and not the force at its command that sets the limits to the authority it is entitled to exercise.

Fernando, E., *The Bill of Rights* (2nd ed. 1972), p. 3,
Citing Laski, *The State in Theory and Practice* (1935), pp. 35-36

Application:

Compare the State to your family, with your parents as the Government, and you and your siblings as the citizens. Your parents exercise authority over the children for several reasons:

- (1) Your parents want to protect you and your siblings from all harm;*
- (2) Your parents provide standards by which you and your siblings may participate in family decisions; and*
- (3) Your parents prescribe rules for you and your siblings to observe in relating with each other.*

To protect your family from harm, your parents keep strangers away from the home. Your parents prevent any attempt by anyone to take you away from them.

Your parents may allow you and your siblings to participate in making family decisions. However, there are rules that you and your siblings must observe when you do so. For instance, you must remain respectful toward your parents when reasoning with them; you cannot shout nor have tantrums in the process. You and your siblings must take turns in voicing out your respective opinions. You must remain quiet as your siblings take their turn in talking. You must not make fun of the opinions of your siblings, and instead think them over carefully. On the other hand, if your parents allow you and your siblings to be unruly during a family meeting, the discussion would become useless and no decision can be made.

Your parents also lay down rules for you and your siblings to observe toward each other. For example, you cannot hit or use other forms of violence against your brother or sister, even if you are angry. If you do, your parents will make you apologize to your sibling and punish you. Also, your parents will tell you that if you have a problem with your sibling, you should bring the matter to the attention of your parents, who will discuss and resolve the issue with both of you.

Your parents lay down all these rules so that there may be peace and harmony in the family, and that you and your siblings may grow up to be good and responsible persons.

Points to Ponder on:

1. *How can the State be compared to a family?*
2. *Why is the Government like your parents?*
3. *Why do you need your parents or elders?*
4. *Why do citizens need the Government?*
5. *Why do you need to get along with your brothers and sisters?*
6. *Why do citizens need to get along with each other?*
7. *Why do you need to obey your parents? What happens when you and your siblings obey your parents all the time?*
8. *Why do citizens need to follow the law laid down by the State? What happens when citizens follow the law?*
9. *What happens to the family when children disobey the rules laid down by their parents?*
10. *What happens when citizens break the law?*

Enrichment Exercise:

Recall a Filipino movie that you have seen that deals with the family. How do the parents treat their children and vice-versa? Do you agree with their treatment? Why or why not? Share your insights with your seatmate.

Lesson 6

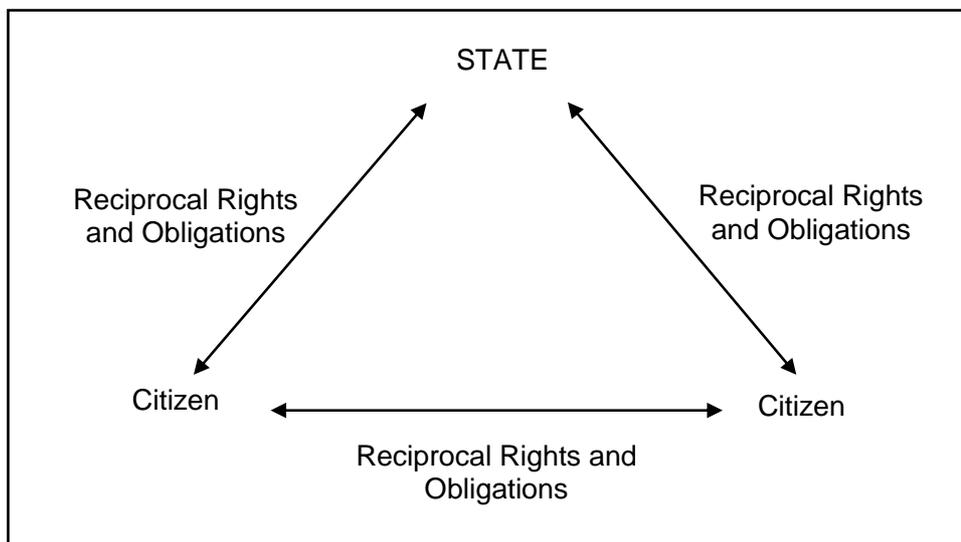
Both the State and Its Citizens are Bound by the Rule of Law

The State has certain **obligations** to its citizens. These obligations translate to corresponding **rights** on the part of the citizens, which the citizens may demand from the State.

On the other hand, the citizens, in relating to the State, must observe certain rules in exercising their rights. Thus, the State may enforce obligations from its citizens who must comply with these rules.

Moreover, persons, in relating with each other, have to abide by certain rules as well. Relations are created among persons, who have mutual rights and obligations toward each other.

In summary, the right of one party translates to an obligation on the part of another. And the exercise of a right by a person carries with it corresponding obligations.



Application:

Compare the State to your family.

What are your parents' obligations to you? Your parents are obliged to provide you with your needs such as food, clothing, shelter, and an education. As their child, these are your rights.

On the other hand, what are your obligations to your parents? You must love, honor, obey, and respect your parents. Your parents have the right to exact obedience from you.

You also have a separate relationship with your brothers or sisters. There must be mutual respect among you and your brothers or sisters. In other words, you have a right to be treated with respect by your brother or sister, and an obligation to treat your brother or sister with respect, in return.

Points to Ponder on:

- 1. Is it acceptable for you to disrespect your parents, even as they love and care for you, and provide you with all your needs?*
- 2. Would it be fair for you to demand that your brother or sister treat you with respect, if you, yourself, do not treat him or her with respect?*
- 3. What are some of the obligations of a citizen to the State?*
- 4. What are some of the obligations of the State to its citizens?*
- 5. Why must citizens pay their taxes?*

Enrichment Exercise

As a follow-up to the previous enrichment exercise, if you were the scriptwriter of the film you told your seatmate about, would you change the depiction of the family? Why or why not? Share your insights with your seatmate.

Lesson 7

Historical Background of the Development of Law and Legal Structures in the Philippines

Pre-Spanish Period



In pre-Spanish times, the basic unit of society, as it is today, was the family. Several families made up a community, called a **barangay**. There was no central government. The chieftain headed the barangay. He was alternatively called the *datu*, *rajah*, *lakan*, or *hari*. The chieftain acted as the leader who issued rules to be observed by everyone in the barangay. Any dispute among the members of the community was referred to the

chieftain and/or a council of elders, who resolved the controversy. In any case, the chieftain consulted the elders of the community in his actions. The observance of standards from this rule-making processes produced **customs**, or a way of life which, though not written, were handed down from generation to generation by word of mouth.

The chieftain organized the able members of the community to provide protection to its members. In turn, the members of the community provided a portion of their harvest to the chieftain.

The laws that governed the inhabitants of the barangays thus consisted of **rules** issued by the chieftain, the **decisions** made by the chieftain and/or a council of elders, and the **customs** that evolved from these acts. These **unwritten rules** varied across communities, depending on the evolving values of the members of the barangay.

While the law that prevailed during the pre-Spanish period consisted mainly of these unwritten rules, there is also evidence of some written laws during this period – the *Maragtas Code*, issued by Datu Sumakwel of Panay Island sometime between 1200 and 1212 A.D., and the *Code of Kalantiao*, issued by Datu Kalantiao, also of Panay, in 1433.

Points to Ponder on:

1. *Why do you think were most of the laws during the pre-Spanish period unwritten?*
2. *How do you compare a barangay to a State?*
3. *How do you think were the chieftains selected?*
4. *From the description above, would you say that what prevailed during the pre-Spanish regime was the Rule of Law, or the Rule of Man? Why?*

Spanish Period (1521 to 1898)

The colonization of the Philippine Islands by Spain began when Ferdinand Magellan set foot in Mactan on March 16, 1521 and claimed the islands in the name of the Spanish Crown.



Ferdinand Magellan

The Philippines was initially established as a dependency of Mexico, replacing the barangays with a centralized government administered by the Mexican viceroy under the control of Spain.

During this period, a number of laws in Spain were extended to and took effect in the Philippine Islands: the Penal Code, the *Ley Provisional* and the *Ley de Enjuiciamiento Criminal* (the Code of Criminal Procedure), the *Ley de Enjuiciamiento Civil* (the Code of Civil Procedure), the Code of Commerce, the Civil Code, the Marriage Law of 1870, the Mortgage Law, the Mining Law, the Law of Waters, the Copyright Law, the Railway Law, the Notarial Law, the Law of Foreigners for Ultramarine Provinces, the Code of Military Justice, the *Las Siete Partidas*, *Las Leyes de Toro*, *Las Leyes de las Indias*, and *La Novisima Recopilacion*.

A court system was also established in the Philippine Islands, with the *Royal Audiencia* on top of the hierarchy, the equivalent of our present-day Supreme Court. However, decisions of the Royal Audiencia were appealable to the Supreme Court of Spain.

When Mexico separated from Spain in 1821, the Philippine Islands became governed by a governor-general appointed by the Spanish

Crown. The governor-general enjoyed vast powers, including the enforcement of decrees from Spain.

Under the Spanish colonization, Filipinos fought for their fundamental rights. The Propaganda Movement demanded the assimilation of the Philippines by Spain, and the extension to Filipinos of civil and political rights such as the protection of person and property, specifically freedom from arbitrary action, particularly of the *Guardia Civil*.

When the Propaganda Movement failed, Andres Bonifacio founded the Katipunan in 1892. This was the military arm of the secessionist movement with the principal objective of creating an independent Filipino nation through armed revolution. While preparing for separation from Spain, the representatives of the movement undertook constitutional projects. On May 31, 1897, a republican government was established in Biak-na-Bato, followed on November 1, 1897 with the unanimous adoption by the revolution's representatives of the Provisional Constitution popularly known as the **Constitution of Biak-na-Bato**.

However, two months later, the Pact of Biak-na-Bato was signed under which the Filipino military leaders agreed to cease fighting against Spain, in exchange for monetary indemnity for the Filipino men in arms and other reforms. General Emilio Aguinaldo had, by then, become the military leader, after Bonifacio's death. He and other Filipino leaders agreed to exile themselves in Hong Kong in December 1897.

In April 1898, the Spanish-American War broke out, and Aguinaldo came back to the Philippines. On June 12, 1898, Aguinaldo became the President of the Revolutionary Government.

In September 1898, the Revolutionary Congress was inaugurated, and its primary goal was to formulate and promulgate a Constitution. The fruit of these efforts was the **Malolos Constitution**.

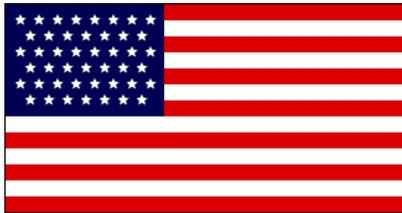
Points to Ponder on:

- 1. During the Spanish colonization, what do you think happened to the system of unwritten laws that prevailed in the Philippine Islands during the pre-Spanish period?*
- 2. Why did the Filipinos seek independence from Spain?*

3. *Why did the Filipinos want certain fundamental individual rights recognized and protected through a constitution?*
4. *Is a constitution a manifestation of the Rule of Law?*
5. *What do you think was the effect of directly adopting laws from Spain and applying them to the Philippine setting even if the cultures of the two countries were different?*

American Period (1898 to 1935)

The Malolos Constitution was shortlived. It took effect in January 1899 but after its promulgation, war between the Philippines and the United States broke out, and the Republic survived for only about ten months. On March 23, 1901, the Americans captured Aguinaldo who thereafter took his oath of allegiance to the United States.



1898 American Flag

On the other hand, the Treaty of Paris was concluded on December 10, 1898. It transferred sovereignty over the Philippine Islands from Spain to the United States. Because of the change in sovereignty, all of the **political laws**, that is, the laws governing the relations between the State and its citizens, were abrogated. Thereafter, American political law prevailed over the Philippine Islands. However, the laws emanating from Spain that regulated **private relations**, or those among individuals, continued to remain in force.

American President William McKinley in his **Instruction of April 7, 1900 to the Second Philippine Commission**, announced his intention to form a democratic form of government in the Philippines. He provided a guide for the transition of the **military** government into a **civil** government. During the transition, the military governor managed the affairs of the Philippines. President McKinley also relayed the recognition of some "inviolable rules", or Bill of Rights. These rules provided, among others, that:

- No person shall be deprived of life, liberty, or property without due process of law
- No person shall be twice put in jeopardy for the same offense, or be compelled to be a witness against himself;

- The right to be secure against unreasonable searches and seizures shall not be violated
- No law shall be passed abridging the freedom of speech or of the press or of the right of the people to peaceably assemble and petition the Government for redress of grievances.

The military governor also set up a new court system consisting of a Supreme Court, courts of first instance, and the justices of the peace courts. On June 11, 1901, the Supreme Court was organized which consisted of a Chief Justice and 8 Associate Justices.

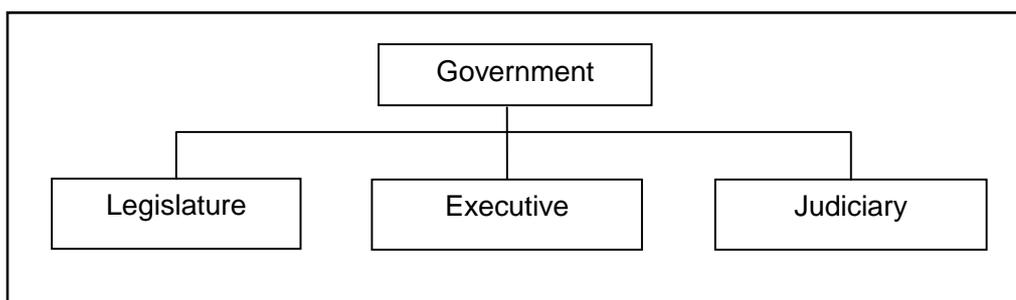
Effective September 1, 1900, legislative power over certain subjects such as the raising of revenues, appropriation and expenditure of public funds, and the organization and establishment of courts, passed from the military governor to the Commission, subject to the United States President's approval.

However, the executive power continued to remain with the military governor, until the Spooner Amendment to the Army Appropriations Bill which abolished the position of military governor. The executive power was then assumed by the President of the Philippine Commission, who became the Civil Governor.

The **Philippine Bill of 1902**, which was enacted on July 1, 1902, then provided for the holding of a general election of delegates to an assembly, which was to become one of the houses of a bicameral legislature (two houses). The Philippine Commission was the other house.

The first general elections were held on July 30, 1907, for a body which was to become a permanent structure of the Philippine government — the national legislature.

The **Philippine Autonomy Act of 1916**, or the **Jones Law**, declared the intent of the United States to eventually withdraw from the Philippines, and to recognize Philippine independence when a stable



government was put in place. For the first time, the law expressly provided for the principle of separation of powers among the legislature, executive, and judiciary.

On March 24, 1934, the **Philippine Independence Act**, also known as the **Tydings-McDuffie Law**, was enacted. It guaranteed independence to the Philippines and authorized the drafting of a Philippine Constitution, to be ratified by the Filipino people. The law provided that the government should be republican in form and the constitution to be drafted should contain a Bill of Rights. Thus, the Constitutional Convention of 1934 was convened, and the 1935 Constitution drafted.

In the meantime, in the field of **criminal law**, or laws defining crimes and providing for their punishment, the Spanish *Codigo Penal* of 1870 remained in force. On January 1, 1932, the Revised Penal Code, Act No. 3815, was enacted by the Philippine Legislature. It retained most of the features of the Spanish *Codigo Penal*. The Revised Penal Code subsists to this day.

On the other hand, **commercial law**, which affects certain commercial transactions and relations, became a commixture of Spanish law and American law. Some commercial laws from Spain were retained, while new laws on certain areas were introduced, such as corporations, insurance, and securities, using American models.

Points to Ponder on:

1. *Why do you think were political laws abrogated after the change in sovereignty in the Philippine Islands from Spain to the United States?*
2. *Why do you think private laws, which emanated from Spain, continued to remain in force in the Philippine Islands despite the change in sovereignty?*
3. *What were the actions taken to prepare the Philippines for independence?*

The Commonwealth Period (1935 to 1946)

The **1935 Constitution** was approved by the Convention on February 8, 1935. On March 23, 1935, United States President Franklin D. Roosevelt affixed his signature on the Constitution. By an overwhelming majority, the Filipino voters ratified it on May 14, 1935. On November 15, 1935, the Commonwealth Government was inaugurated.

Then came the Japanese occupation from 1942-1945.

When World War II war ended, American sovereignty was finally withdrawn from the Philippines. Philippine independence was proclaimed on July 4, 1946. It was by no coincidence that this date matches America's own independence day.

Period of the Republic (1946 to present)

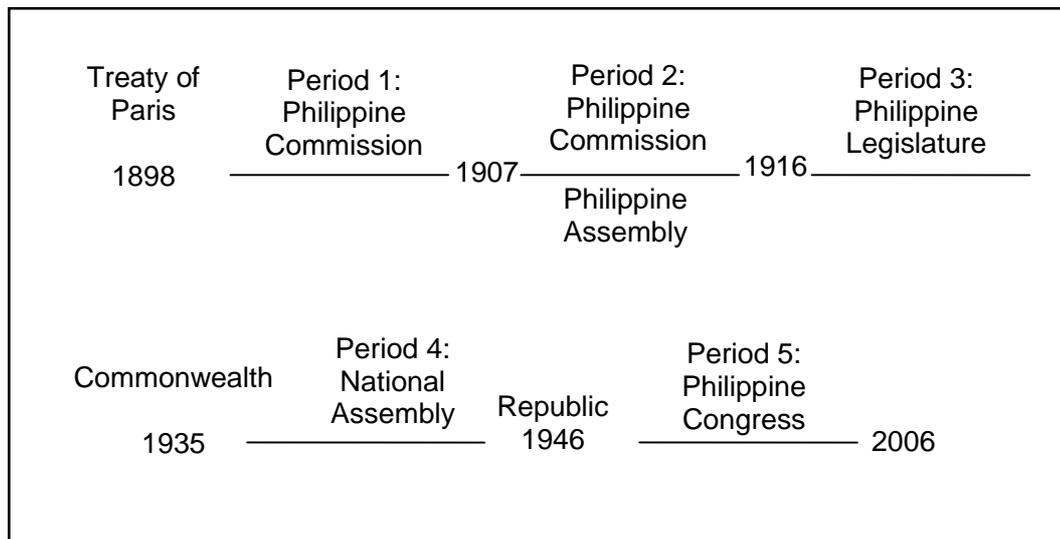
In the 1960s, there was a demand to revise the 1935 Charter so that it may be more responsive to the problems of the country in the socio-economic area, and to address the threats to the security identified by then President Ferdinand E. Marcos. In 1970, delegates to the Constitution Convention were elected, who convened on June 1, 1971. On September 21, 1972, martial law was declared to enable then President Marcos to allegedly control the insurgency. Congress was abolished and the President assumed both executive and legislative powers. In the meantime, the **1973 Constitution** went into effect on January 17, 1973. The people's rights in the 1935 Constitution were reaffirmed, and the government took on a parliamentary, rather than a presidential, form.

In 1986, President Corazon Aquino rose to power in the EDSA Revolution of February 23–25, 1986, sparked by the tarmac killing of former Senator Benigno S. Aquino on August 21, 1983. On March 25, 1986, President Aquino issued Proclamation No. 3 adopting a Provisional Constitution. The **Provisional Constitution**, otherwise known as the **Freedom Constitution**, provided for the adoption of a new constitution within 60 days.

The 1986 Constitutional Commission thus drafted the **1987 Constitution**, which was ratified and became effective on February 2, 1987. As in the 1935 and 1973 Constitutions, it retained a republican system of government.

In summary, after a civil government was established in the Philippine Islands with the assumption of American sovereignty, laws were enacted through five periods of legislation:

- (1) The Philippine Commission, ending in 1907
- (2) The Philippine Commission and the Philippine Assembly, ending in 1916
- (3) The Philippine Legislature (Senate and House of Representatives), beginning in 1916, and continuing until the establishment of the Commonwealth on November 15, 1935
- (4) The period of the National Assembly under the Commonwealth, until the proclamation of the Republic of the Philippines on July 4, 1946; and
- (5) The period of the Philippine Congress since the country became a Republic, up to the present.



Five Periods of Legislation after the Treaty of Paris in 1898

Points to Ponder on:

1. *What is martial law?*
2. *If there is truly no peace and order in a country, is there justification for martial law?*

3. *If martial law should be necessary, do you think this should be for a prolonged period of time?*
4. *What are the dangers of one-man rule, as seen when the Philippines was under martial law?*

Enrichment Exercise:

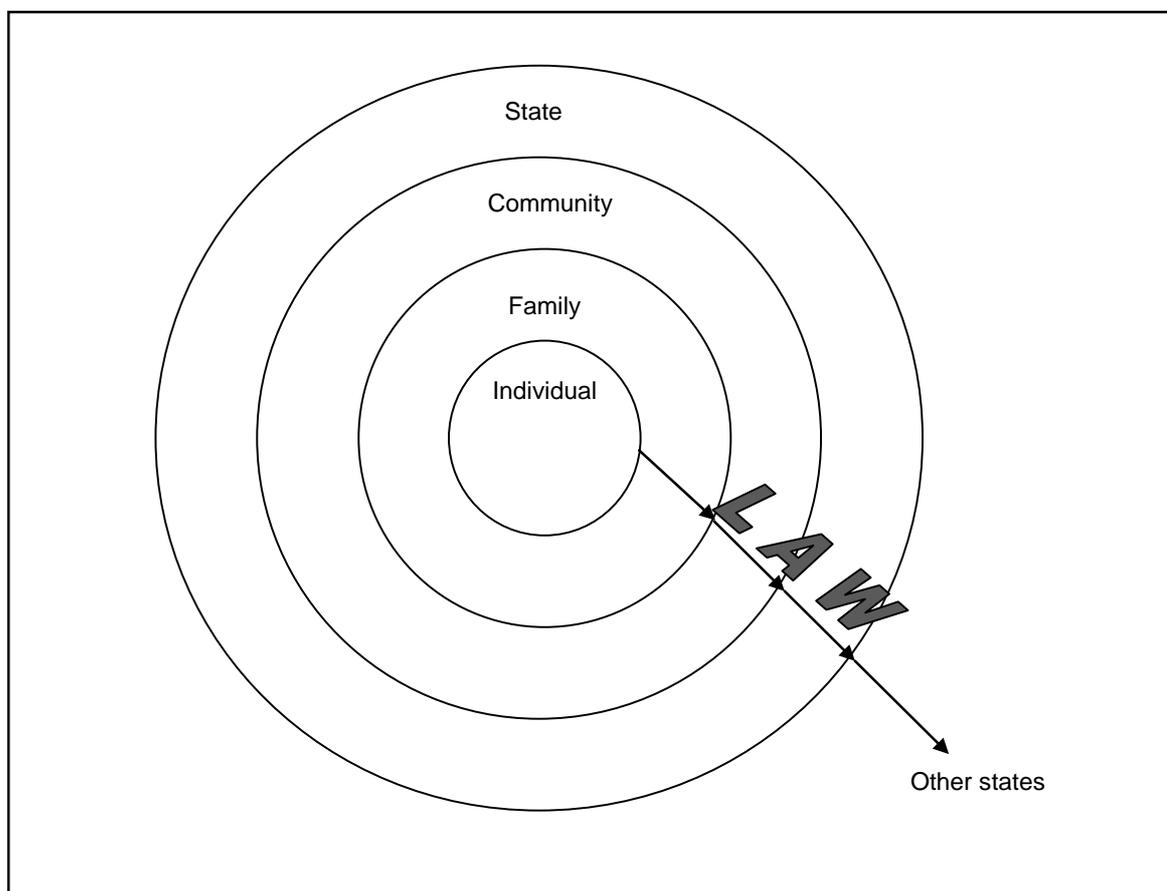
Your teacher will divide the class into five groups. Group I will do research on the Pre-Spanish period, Group II on the Spanish period (1521 to 1898), Group III on the American period (1898 to 1935), Group IV on the Commonwealth period (1935 to 1946) and Group V on the period of the Republic (1946 to present).

Using a multi-media approach (presentation, skit, mime, singing, dancing, etc.), show the highlights of the period assigned to you, focusing on the development of the Law in the country. The presentation will be made one week after the group assignments are done by the teacher.

Lesson 8

General Classifications of Law

The law governs many facets of an individual's life: it regulates man's relationship with his family, his community, the State, and foreign states; it also defines the standards for the acquisition, maintenance, and disposition of properties.



In the *substantive* sense, or when content is considered, law is divided into two main classes: (1) *general or public law* and (2) *individual or private law*.

1. General or public law: This type of law governs the relationship between an individual and the State. This may further be broken down as follows:

- a. *International law*, which governs the relations between nations or states; that is, among human beings in their collective concept;
 - b. *Constitutional law*, which governs the relations between human beings as citizens of a state, and the governing power;
 - c. *Administrative law*, which governs a citizen's relations with the officials and employees of the government;
 - d. *Criminal law*, which defines crimes and provides sanctions for acts deemed harmful to public order;
2. Individual or private law: This type of law governs the relationship among individuals in their private capacity. This may further be broken down as follows:
- a. *Persons and Family law*, which defines the rights and duties of persons in general, and governs the relations among family members;
 - b. *Civil law*, which regulates the relations of individuals with other individuals in relation to property, for purely private ends;
 - c. *Mercantile or commercial law*, which regulates relations produced by special commercial transactions;
 - d. *Procedural law*, which provides for the method by which rights may be protected and enforced.

Points to Ponder on:

1. *Why must the relation between an individual and the State be regulated?*
2. *Why is there a need for public law?*
3. *Why must the relations among individuals be regulated?*
4. *Why is there a need for private law?*

Enrichment Exercise:

Recall if you have seen or heard of a case filed by a family member, relative, or other person belonging to your community. You may also consider cases that have been reported in the news. Where do you think does the case fall in the above classification? Describe the case and share your insights with your seatmates.

Lesson 9

Forms of Law

There is a multitude of sources which prescribe rules of governance, and individual and collective conduct. In the Philippines, the law takes the following forms:

1. **The Constitution**

The **Constitution** is the *highest* law of the land. It is the written manifestation of the sovereign will of the people. It is the yardstick upon which every act of governance is tested and measured.

A constitution is “that body of rules and maxims in accordance with which the powers of sovereignty are habitually exercised.”

Cooley, Constitutional Limitations, p.4

A constitution is “the written instrument created by direct action of the people by which the fundamental powers of the government are established, limited and defined, and by which those powers are distributed among the several departments for their safe and useful exercise for the benefit of the body politic.”

Malcolm, Philippine Constitutional Law, p. 6

The purpose of a constitution is “to prescribe the permanent framework of a system of government, to assign to the several departments their respective powers and duties, and to establish certain first principles on which the government is founded.”

11 Am. Jur. 606

2. **Statutes**

A **statute** is a law enacted by the legislature.

3. **Administrative rules and regulations**

Administrative rules and regulations are issuances made by administrative agencies of the government, which are part of the executive branch. Although a circular duly issued is not strictly a statute or a law, it has, however, the force and effect of law.

An **agency** of the Government refers to the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporation, or a local government or a distinct unit.

4. **Agency decisions**

Agency decisions refer to decisions made by administrative agencies which exercise decision-making powers on controversies that are brought before them.

5. **Municipal Ordinances**

Local government units (LGUs) or municipal corporations are agencies of the State for the promotion and maintenance of local self-government. The following are the local government units under the Local Government Code:

- a. Barangay
- b. Municipality
- c. Province
- d. City

These LGUs enact ordinances for the promotion of the general welfare of its constituents. An ordinance is a law of local application and possesses a general and permanent character.

6. **Supreme Court Decisions**

Decisions made by the Supreme Court, the highest court of the land, form a part of the legal system of the Philippines. Decisions made by the Supreme Court become legal precedents that are followed in subsequent similar cases by all courts in the judicial system.

7. **Generally accepted principles of international law**

The Philippines, by reason of its membership in the family of nations, observes generally accepted principles of international law.

International law refers to the body of rules and principles which governs the relations of nations and their respective peoples in their intercourse with one another.

De Leon, H., Philippine Constitutional Law,
Principles and Cases Book 1, p. 359 (1999)

Enrichment Exercise:

Do research on the most recent ordinance passed by your local government unit. Write a one-paged essay about it and share your insights on the ordinance with your seatmates in the next meeting.

BOOK TWO
(For Second Year High School)

**UNDERPINNINGS OF THE RULE OF LAW
IN THE PHILIPPINES**

Lesson 1

The Tenets of the Rule of Law in the Philippines

By the **Rule of Law** is meant that governance by the State over its inhabitants is based on rules, applied uniformly, which are made known in advance for the guidance of all. The Rule of Law is a principle that should be observed *both* by the State and its inhabitants in the various facets of their interrelations.

For the Rule of Law to subsist, certain structures must exist in a society. In the Philippines, it can be said that there are generally nine tenets by which the Rule of Law prevails. Some of the principles may be logically subsumed in or related to the others. The following classification of tenets is nonetheless being made to emphasize the importance of each in building and maintaining a regime of law.

The first set of tenets pertains to the philosophies that comprise the foundation of our State:

1. Republicanism and Constitutionalism
2. Separation of Powers, and a System of Checks and Balance
3. Judicial Supremacy

The next set of tenets pertains to measures regulating the relations of the State with its people:

4. Respect by the State of People's Rights
5. Mechanism for the Passage of Laws
6. A System to Enforce State and Public Officers' Accountability

The next set of tenets refers to mechanisms for the regulation of relations among people:

7. Criminal Law Enforcement
8. Laws for the Protection of Property and Contractual Rights
9. Mechanism for Dispute Resolution, and Access to Justice

Tenets 1 through 3 will be discussed in this Book.

Lesson 2

Republicanism and Constitutionalism

Republicanism

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

1987 Constitution, Art. II, sec. 1

A republican form of government is one constructed on the principle that the supreme power resides in the people. A **republic** is a State where the government derives all its power directly or indirectly from the great body of people and is administered by persons holding offices at the pleasure of the people for a limited period.

Thus, a **republican government** is a democratic government managed by representatives chosen by the people at large. The essence, therefore, of a republican state is indirect rule, determined by the rule of the majority. Its officers from the highest to the lowest, both elective and appointive, are agents, representatives and servants of the people, and not their rulers or masters. They serve in public office for a limited period and discharge the duties of their positions as a public trust.

Since direct rule by the people is out of the question for practical reasons, all modern democracies are republics. Under our Constitution, we have a **representative democracy**.

A republic is a representative government, a government run by and for the people. It is not a pure democracy where the people govern themselves directly. The essence of republicanism is representation and renovation, the selection by the citizenry of a corps of public functionaries who derive their mandate for the people and act on their behalf, serving for a limited period only, after which they are replaced or retained, at the option of their principal.

Cruz, I., Philippine Political Law 49 (1991)

By way of implementation, the people have vested general legislative power in the Congress of the Philippines. This means that when an act of the people's representatives in Congress is duly passed and approved by the President according to the Constitution, the act becomes a law without the need of approval or ratification by the people in order to be effective.

Hence, the cornerstone of this republican system of government is delegation of power by the people to the State.

Elections

The instrument by which government representatives are selected by the people is through **elections**.

An election means the choice or selection of candidates to public office by popular vote through the use of the ballot, and the elected officials of which are determined through the will of the electorate. An election is the embodiment of the popular will, the expression of the sovereign power of the people. The winner is the candidate who has obtained a majority or plurality of valid votes cast in the election.

The Supreme Court in *Carlos v. Angeles and Rulloda v. Commission on Elections*

In maintaining a democracy, the citizen has both a right and an obligation to select and vote for his leaders wisely. On the other hand, the obligation of the State in this respect is to determine the true will of the people in the selection of their leader. The State must thus maintain the sanctity of the ballot and uphold the citizens' collective choice.

Direct Democracy: Participation by the People

Despite being a representative democracy, there are some exercises available to the people under the Constitution where citizens may *directly* participate in the task of governance. These exercises are: **plebiscite, referendum, initiative, and recall**.

A **plebiscite** is defined as the “electoral process by which an initiative on the Constitution is approved or rejected by the people.” (Republic Act No. 6735, An Act Providing for a System of Initiative and Referendum and Appropriating Funds Therefore, Sec. 3(e))

Referendum is “the power of the electorate to approve or reject a legislation through an election called for the purpose”. (RA No. 6735, Sec. 3(c))

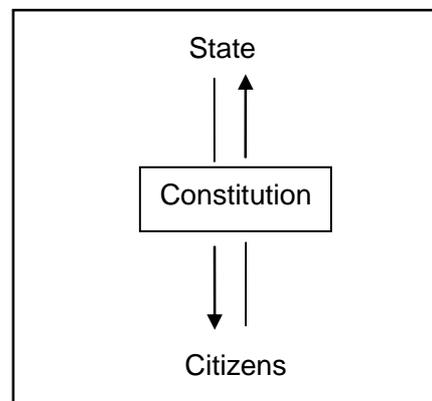
Initiative is “the power of the people to propose amendments to the Constitution or to propose and enact legislations through an election called for the purpose”. (RA No. 6735, Sec. 3(a))

Recall constitutes a removal of a local government official for loss of confidence by the registered voters, or a validation of the mandate of such official. It is an exercise which is available only at the local government unit level.

Indeed, these measures enable citizens to directly participate in the task of nation-building.

Constitutionalism

The **Constitution** is the fundamental and highest law of the land. The purpose of the Constitution is twofold: (1) to prescribe limits to the power of the State that may be exerted upon the people, and (2) to regulate citizen participation in State affairs, lest anarchy result if all the citizens were allowed to *directly* act upon State affairs.



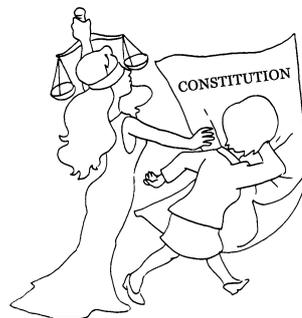
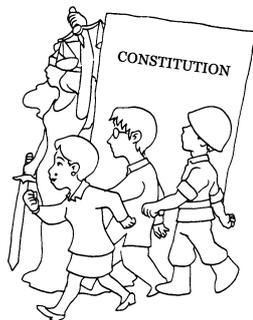
A constitution is “that body of rules and maxims in accordance with which the powers of sovereignty are habitually exercised.”

Cooley, Constitutional Limitations, p.4

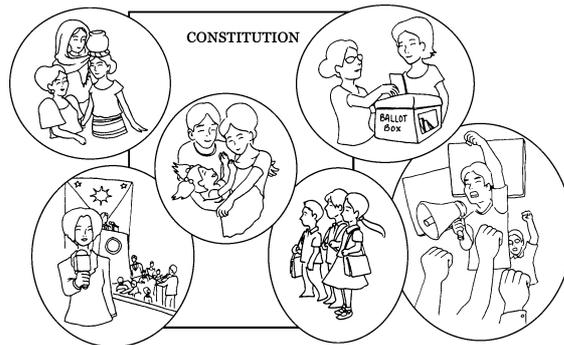
A constitution “is the written instrument created by direct action of the people by which the fundamental powers of the government are established, limited and defined, and by which those powers are distributed among the several departments for their safe and useful exercise for the benefit of the body politic.”

Malcolm, Philippine Constitutional Law, p. 6

All Government actions are tested against the Constitution. It is the Constitution against which all acts of Government are measured and kept in check. If any act of Government collides with the Constitution, such act must be struck down as void.



The Constitution also prescribes how citizens may exercise their **civil, political, economic, social, and cultural rights** in relation to the State.



Points to Ponder on:

1. *What is democracy?*
2. *What is a republican form of government?*
3. *What is the primary obligation of a citizen in establishing a republic?*
4. *Why is it important that citizens exercise their right to vote wisely?*
5. *What is the obligation of the State in the electoral process?*
6. *Can a citizen take any action on certain proposals that he wants to be passed? What are these actions?*
7. *Why do you think are the exercises of plebiscite, referendum, initiative, and recall made available to the citizens under our Constitution? What is the importance of these exercises?*
8. *What are the functions of a Constitution?*
9. *How does republicanism contribute in upholding the Rule of Law?*
10. *How does constitutionalism contribute in upholding the Rule of Law?*

Enrichment Exercise:

Do research on the countries of the world and make a tabulation of the countries that have a democratic form of government and when they first held democratic elections. Share your findings with your seatmate during the next meeting.

Lesson 3

Separation of Powers and a System of Checks and Balance

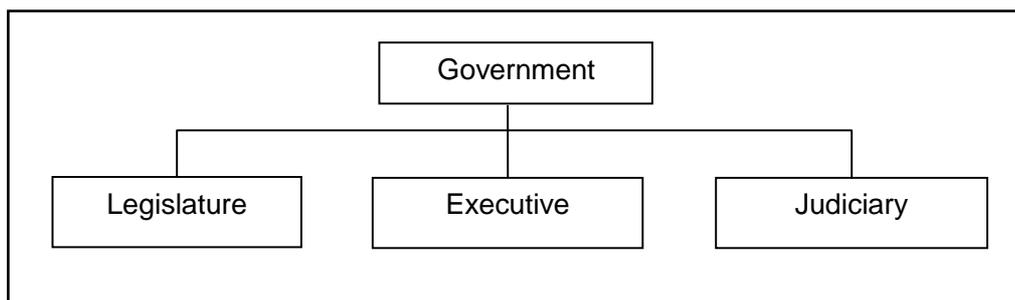
Separation of Powers

For any organization to function efficiently, it is necessary that its leaders know and be accountable for their specific functions. Their roles must be made clear to them, as well as to all members of the organization.

The same is true in Government. The different organs that make up the Government have specific functions to perform. These offices cannot intrude into the areas assigned to the others.

Apart from efficiency, the reason for distributing authority among the different offices in Government is to avoid the concentration of power in one body, because this may lead to abuses. Indeed, one body which alone has the power to run the Government would be easier to corrupt. On the other hand, if there are several co-equal branches of Government, each would serve as a counter-check upon the others, to make sure that they do not exceed their authority. This is the principle of **separation of powers**.

Our people have thus delegated the basic State authority to principally three branches of government — **the Legislative, the Executive, and the Judiciary** — each branch being supreme in its own sphere. However, these branches have constitutional limits, and a firm system of checks and balances govern their relations with each other. Each of these three branches of Government is co-equal with the others, and none is more superior than the other.



Legislative power is the authority to make laws and to alter and repeal them. General legislative power is vested in the Congress of the Philippines.

De Leon, H., Philippine Constitutional Law,
Principles and Cases Book 1, p. 654 (1999)

Executive power is the power to administer the laws, which means carrying them into practical operation and enforcing their due observance. The executive power belongs to the President of the Philippines

De Leon, H., Philippine Constitutional Law,
Principles and Cases Book 1, p. 231 (1999)
Citing COOLEY, Const. Limits, 8th ed., p. 183

Judicial power is “the right to determine actual controversies arising between adverse litigants, duly instituted in courts of proper jurisdiction.”

The Supreme Court in *Muskrat v. United States*

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. The judicial power belongs to the Supreme Court and all the other courts in the judiciary.

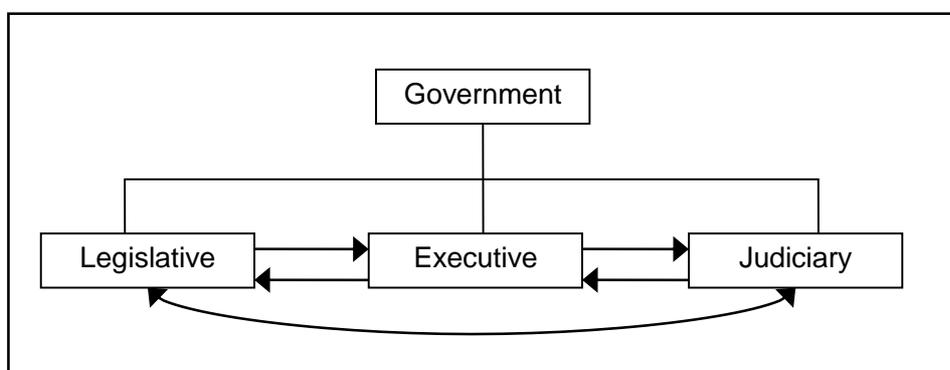
1987 Constitution, Art. VIII, Sec. 1

Checks and Balance

While there is the principle of separation of powers among the three branches of Government, this does not mean that these branches of Government operate *absolutely* independently of each other. The Constitution ensures an elaborate system of **checks and balances** to secure coordination in the workings of the various departments of the

Government. This system of checks and balance also enables each branch of Government to ensure that the other branches stay within, and do not exceed, their respective areas of authority.

Our Government is based upon a system of checks and balance to ensure that each branch stays within the ambit of its Constitutional powers. This is evident in the various mechanisms in the operation of our Government wherein cooperation among the three branches of government is necessary for certain acts.



Examples of the implementation of such system of checks and balance under the 1987 Constitution follow:

1. When a bill is passed by the Legislature, the consent of the President is required before it becomes a law. (1987 Constitution, Art. VI, Sec. 27(1))
2. The President may veto a bill with his objections to the House where it originated. However, even if the President should refuse to approve a bill, the same may become law with the two-thirds vote of all the members of each House. (1987 Constitution, Art. VI, Sec. 27(1))
3. The President has the power to call a special session of Congress at any time. (1987 Constitution, Art. VI, Sec. 15)
4. The Legislature acts as a check on the Executive where the consent of the Legislature is secured for the appointment of officers who work for the Executive. (1987 Constitution, Art. VI, Sec. 18)

5. The concurrence of 2/3 of the Senate is required for the effectivity of a treaty signed by the President. (1987 Constitution, Art. VII, Sec. 21)
6. Furthermore, there is some measure of control over the Judiciary by the Legislature in defining the jurisdiction of the courts. (1987 Constitution, Art. VIII, Sec. 2)
7. The Legislature also exercises the power to initiate and try impeachment cases against Executive officers, with the objective of removing these officers from office. (1987 Constitution, Article XI, Sec. 2)
8. The Judiciary, with the Supreme Court as the final arbiter, effectively checks the other branches, and declares executive and legislative acts void if violative of the Constitution. (1987 Constitution, Art. VIII, Sec. 5, par. 2(a))

Application:

Consider two persons, Romeo and Alex, who have agreed to form a partnership. They will undertake a business venture by putting up a general merchandise store. Romeo and Alex will contribute equal amounts of money, and will both work for the business. They are, therefore, partners with equal interests. Romeo will manage the store from Mondays through Wednesdays, while Alex will manage the store from Thursdays through Saturdays.

Operational decisions may be made by Romeo and Alex individually during the days that each one is in the store. Examples of these operational decisions are the purchases of additional inventory and delivery schedules of equipment and merchandise.

However, major decisions affecting the profits of the business must be made by Romeo and Alex jointly. These include the margins that they would apply on their products and the choice of the products to sell in the store.

Thus, Romeo and Alex are co-equal partners. On the days that each one is managing the store and on the agreed areas of the business, they may individually make decisions about the management of the store. To avoid conflict, from Mondays through Wednesdays, it is only

Romeo who can manage the store. Alex cannot intrude into the management of the store on these days. The reverse is true from Thursdays through Saturdays, with Alex managing the store. However, even if Romeo is managing the store on his assigned days, he cannot make major decisions on his own. He will still need the concurrence of Alex.

Points to Ponder on:

1. *In the example above, why did Romeo and Alex lay down the rule that their mutual concurrence is needed for major decisions affecting the business?*
2. *If Romeo and Alex allowed each other to individually make major decisions affecting the business, what negative consequences may arise?*
3. *What negative consequences will arise if, on Romeo's assigned days, Alex still insists on managing the store? Why is it necessary that Romeo and Alex abide by their agreement to allow each other to make operational decisions based on the day of the week?*
4. *What is the function of the Legislature?*
5. *What is the function of the Executive?*
6. *What is the function of the Judiciary?*
7. *What document lays down the functions of each branch of Government?*
8. *What is the principle of Separation of Powers?*
9. *How does the principle of Separation of Powers contribute in upholding the Rule of Law?*
10. *What is the principle of Checks and Balance?*
11. *How does the principle of Checks and Balance contribute in upholding the Rule of Law?*

Lesson 4

Judicial Supremacy

Judicial Review

Being the supreme law of the land, all Government actions are tested against the Constitution. No act of Government should violate the Constitution. Where a Government act is unconstitutional or contrary to the Constitution, this means that such act is void and must be struck down.



Supreme Court En Banc

Which organ of Government decides this? Whether the act is done by the Legislature, as when the validity of a law is challenged, or by the Executive, when the validity of an executive act is examined — it is the Judiciary that determines if such act conforms to the Constitution, through the power of **judicial review**. And when the Supreme Court does exercise this power, it does not assert superiority over the Legislature or the Executive. It merely performs its sacred task of allocating powers under the Constitution.

And when the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed "judicial supremacy" which properly is the power of judicial review under the Constitution.

The Supreme Court in *Angara v. Electoral Commission*

In determining whether a law or act is invalid or not, it is the Supreme Court which has the last word on the matter.

The Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justifiable controversy.

The Supreme Court in *Albert v. Court of First Instance of Manila*

Application:

When the accused in a criminal case is convicted (found guilty) of an offense, he may apply for probation. This means that the service of his sentence of imprisonment is not implemented. Rather, his sentence is suspended, subject to certain conditions. Examples of these conditions are – that he must present himself regularly to a probation officer, to ensure that he is conducting himself as a good citizen and is not violating any law. If he remains in good conduct, he will not be imprisoned. Otherwise, if he does not observe good behavior, his suspended sentence of imprisonment will be carried out.

In 1937, the Supreme Court ruled on the constitutionality of Act No. 4221, or the Probation Act. The Act is a law passed by the Legislature, a co-equal branch, and the Supreme Court tested its validity against the Constitution.

The Probation Act provided that it shall apply only in those provinces in which the respective provincial boards have provided for the salary of a probation officer.

The Supreme Court ruled that the Probation Act was unconstitutional (violated the Constitution). The Supreme Court found that the law gave discretion to the various provincial boards across the country whether to provide for the salary of a probation officer or not. And in a locality where no salary is provided for a probation officer, there would be no probation officer, and the Probation Act would therefore not apply.

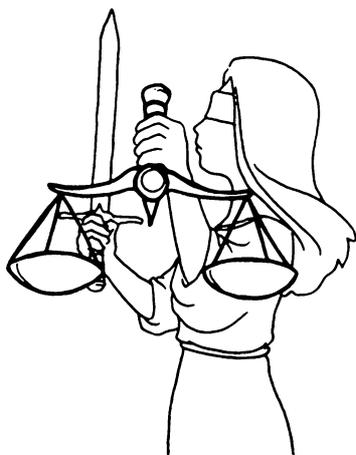
Hence, in Province A, the provincial board may approve the salary of a probation officer, and so the people who are convicted of a crime in that province may apply for probation. On the other hand, in another Province B, the provincial board may not provide for the salary of a probation officer, and so the people who are convicted of crimes in that province cannot enjoy the benefits of probation.

*The Supreme Court found this unfair, because this would violate the **equal protection clause** of the Constitution. While several people in different provinces may be convicted for similar crimes with the same punishment, some may enjoy the benefits of probation, while others may not, simply because the province of the latter does not have a probation officer.*

In this example, hence, even if it was the Legislature, a co-equal branch, which enacted the Probation Act, the Supreme Court struck it down for violating the Constitutional rule on equal protection, which requires that persons similarly situated must be treated equally.

The Supreme Court in *People v. Vera*

Judicial Independence



It is thus seen that the Supreme Court has delicate tasks to perform: it checks the validity of the acts of the other branches of Government, which are its co-equals. The courts also settle actual controversies or disputes among parties. It is therefore necessary that the Judiciary be capable of operating independently so that it may dispense justice uniformly and without partiality. It must be insulated from circumstances which may affect its uniform dispensation of justice.

To this end, several mechanisms are employed in the Constitution to ensure such independence. Some of these examples are embodied in the following provisions of Article VIII of the 1987 Constitution:

1. Section 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of the various courts but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 hereof.

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

2. Section 3. 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.
3. Section 5(6) The Supreme Court shall have the following powers: ... Appoint all officials and employees of the Judiciary in accordance with the Civil Service Law.
4. Section 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.
5. Section 10. The salary of the Chief Justice and of the Associate Justices of the Supreme Court, and of judges of lower courts, shall be fixed by law. During their continuance in office, their salary shall not be decreased.
6. Section 11. The Members of the Supreme Court and judges of lower courts shall hold office during good behavior until they reach the age of seventy years or become incapacitated to discharge the duties of their office. The Supreme Court *en banc* shall have the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.
7. Section 12. The Members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions.

Application:

In one case before Judge Virginia, one of the party-litigants, Ben, was the best friend of Judge Virginia. Ben tried to influence Judge Virginia, and requested Judge Virginia to decide the case in his favor.

Instead of agreeing to the request of Ben, Judge Virginia voluntarily inhibited herself, or refrained from hearing the case, and requested that it be transferred to the sala of another judge.

Stare Decisis

In support of the Rule of Law, there must be stability of legal principles based on cases decided by the courts. And for this, the principle of ***Stare Decisis*** is observed. This means that a legal principle applied by the Supreme Court shall be followed by all courts, if the same facts and circumstances apply to subsequent controversies, even if the parties may be different. This normative function is important so that the courts may be guided in their decisions. It also serves to inform the public how the courts will resolve similar controversies. This principle gives assurance of fairness, in that like circumstances will be treated similarly.

Stare decisis simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike.

The Supreme Court in Villena v. Chavez

Despite the principle of *stare decisis*, it is, however, possible for a judicial precedent to be set aside by the Supreme Court *en banc* (meaning, in full membership), in extraordinary circumstances.

Application of Stare Decisis:

Your parents lay down certain rules to be observed by the members of the family, especially the children. They announced to all their children that when a child neglects to do his homework without justifiable reason, the child will not be allowed to watch television for one week.

One time, your brother was given homework by his Science teacher. However, he did not do it because he played basketball instead of studying. When your parents found out about the incident, he was not allowed to watch television for one week.

The next month, it was your sister who failed to do her Math homework over the weekend, because she went to the mall with her friends. Again, when your parents found out about this, your sister was not allowed to watch television, also for a week.

Because of these incidents, you know that if you fail to do your homework for no good reason, you will get the same punishment.

On the other hand, if you fail to do your homework because you got very sick and were thus unable to study, your parents will understand and will not impose any punishment. This situation is not the same as simply neglecting your studies.

Points to Ponder on:

1. *What is the function of the Supreme Court?*
2. *What is the contribution of the Judiciary in maintaining the Rule of Law?*
3. *Why is it important to have an independent Judiciary?*
4. *What would be the negative effects if the Judiciary is susceptible to pressure from the other branches of Government?*
5. *In the example above, what would be the result if Judge Virginia gave in to the request of her best friend, Ben?*
6. *What would be the negative effects if the Judiciary is susceptible to pressure from private individuals?*
7. *How does an independent Judiciary contribute in maintaining the Rule of Law?*
8. *From the example above:*

- *How do you know that your parents will not allow you to watch television if you do not do your homework without any good reason?*
 - *Knowing the punishment that will be imposed by your parents if you do not do your homework, will you still risk not doing your assignment?*
 - *In the example where you failed to do your assignment because of illness, why will your parents not punish you? Are the circumstances the same as those surrounding your brother or sister?*
9. *How does the principle of Stare Decisis contribute in maintaining the Rule of Law?*

BOOK THREE
(For Third Year High School)

THE STATE IN RELATION TO THE PEOPLE

Lesson 1 (Review)

The Tenets of the Rule of Law in the Philippines

By the Rule of Law is meant that governance by the State over its inhabitants is based on rules, applied uniformly, which are made known in advance for the guidance of all. The Rule of Law is a principle which should be observed both by the State and its inhabitants in the various facets of their interrelations.

For the Rule of Law to subsist, certain structures must exist in a society. In the Philippines, it can be said that there are generally nine tenets by which the Rule of Law prevails. Some of the principles may be logically subsumed in or related to the others. The following classification of tenets is nonetheless being made to emphasize the importance of each in building and maintaining a regime of law.

The first set of tenets pertains to the philosophies which comprise the foundation of our State:

1. Republicanism and Constitutionalism
2. Separation of Powers, and a System of Checks and Balance
3. Judicial Supremacy

The next set of tenets pertains to measures regulating the relations of the State with its people:

4. Respect by the State for People's Rights
5. Mechanism for the Passage of Laws
6. A System for State and Public Officers' Accountability

The next set of tenets refers to mechanisms for the regulation of the relations among people:

7. Criminal Law Enforcement
8. Laws for the Protection of Property and Contractual Rights
9. Mechanism for Dispute Resolution, and Access to Justice

Tenets 4 through 6 will be discussed in this Book.

Lesson 2

Respect by the State for People's Rights

Human Rights

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

1987 Constitution, Art. II, Sec. 11

There are certain rights inherent in man that the State is obliged to acknowledge and protect at all costs. These rights, called **human rights**, are intrinsic in being human and are **universally** recognized - meaning anywhere and everywhere in the world. These are not considered as granted by the State, because they naturally exist in man. These rights cannot be curtailed. These are the rights that must be protected by the State at the *minimum*.

To this end, the United Nations adopted the **Universal Declaration of Human Rights** in 1948,² which declares what human rights must be respected by states *anywhere and everywhere in the world*, regardless of a person's race, gender, or station in life. The Declaration proclaims that basic rights and freedoms are inherent and inalienable to every member of the human family. These human rights include **civil, political, economic, social, and cultural rights**.

Civil rights refer to the protection and privileges of personal liberty given to all citizens. Examples of civil rights and liberties include the right to life, to privacy, to travel, and to a fair investigation and trial if suspected of a crime.

Political rights refer to those which a citizen exercises in relation to his membership in a State and the conduct of its affairs. Examples of these are the rights to express one's opinion, to participate in elections to vote, to run for public office in an election, and to take part in governance and the conduct of public affairs.

Economic rights involve the provision of some economic good. These include a job and the protection of tangible and intangible property rights,

² See Annex A for a copy of the Declaration

such as the enforcement of exclusive rights in inventions or in works of authorship.

Social rights refer to the protection of people's entitlements to basic needs and an adequate standard of living such as education, health care, and social security.

Cultural rights include the right to express, protect, and enjoy one's culture, background, ethnicity, and identity. Cultural rights include a group's ability to preserve its customs and way of life.

The Bill of Rights

The **Bill of Rights** consists of guarantees for the protection of the individual against what may be the over-arching powers of the State. *Therefore, the Bill of Rights regulates the relationship between the State and the individual.* The Bill of Rights is enshrined in Article III of the 1987 Constitution³. Examples of rights in the Bill of Rights are the *right to due process* and the *equal protection clause*.

Right to Due Process

"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."

1987 Constitution, Art. III, Sec. 1

The right to due process guarantees that the required procedure is followed by the State before it takes a person's life, freedom, or property. Failure by the State to observe the prescribed procedure does not entitle the State to take offensive or curtailing action against a person. Due process is a guarantee against arbitrariness on the part of the Government.

³ See Annex B for a copy of Article III of the 1987 Constitution

Application:

While a person may be caught red-handed possessing prohibited items, such as an unlicensed gun, he cannot be imprisoned unless his side has been heard in a trial in court. The procedure for investigating, prosecuting, and hearing an accused must be followed, because the accused may have a reasonable explanation for having the gun in his possession (as, for instance, a stranger “planting” the gun in his bag without him knowing it). In cases such as this, one of the things that the Bill of Rights tries to guard against is possible abuses by agents of the Government who may be overzealous in their actions in prosecuting the accused. Thus, even the Government must observe the necessary process in bringing the accused to justice.

Equal Protection Clause

“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.”

1987 Constitution, Art. III, Sec. 1

The **equal protection** clause requires that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed. In short, there should be no discrimination in the treatment of persons, on the principle that all men are equal. But if the relevant circumstances surrounding the persons are different, these distinct conditions may allow for differing rules to apply to them.

Application:

For instance, two adults, Vicente and Agustin, who commit the same prohibited act, must be given the same punishment. However, if the mental capacity of Agustin is impaired, such that he does not actually understand the meaning and consequences of his actions, then Agustin may be exempt from punishment. Agustin’s lack of mental capacity justifies a treatment different from Vicente, who has full mental faculties. In this example, it would not be just for the State to impose the same penalty on Agustin as it would on Vicente, because Vicente and Agustin

are differently situated. Agustin, because of his mental impairment, does not have criminal intent, unlike Vicente.

Points to Ponder on:

1. *What are human rights?*
2. *Can human rights change depending on where a person lives?*
3. *Who granted human rights to man?*
4. *What is the obligation of the State with respect to human rights?*
5. *What are civil rights?*
6. *What are political rights?*
7. *What are economic rights?*
8. *What are social rights?*
9. *What are cultural rights?*
10. *How does respect of the State for human rights contribute in upholding the Rule of Law?*
11. *What is the purpose of the Bill of Rights?*
12. *Why must the State observe the procedure laid down by the law when the State takes action against individuals?*
13. *In the example above, why must the treatment of Agustin be different from the way Vicente is to be treated?*
14. *How does the respect of the State for the Bill of Rights contribute in upholding the Rule of Law?*

Enrichment Exercise:

From your knowledge of Philippine history, or from current events, whether local or international, identify what you think are violations of human rights. What kind of human rights are being violated in your example? What should be done about these violations? Share your insights with the class.

Lesson 3

Mechanism for the Passage of Laws

Law is a norm of human conduct in social life, established by a sovereign organization and imposed for the compulsory observance of all.

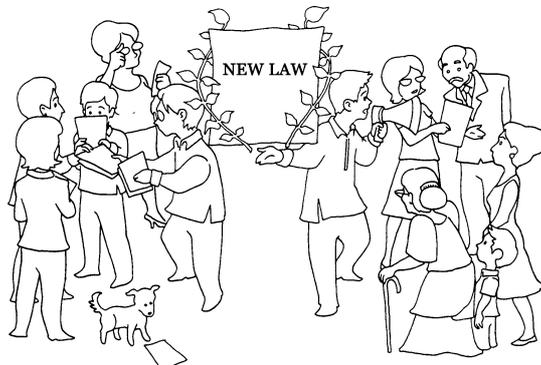
Ruggiero (cited in Vol I., A. Tolentino, Civil Code of the Philippines, Commentaries and Jurisprudence with the Family Code of the Philippines 1 (1990))

The characteristics of law are:

1. It is a rule of human conduct;
2. It is prescribed by competent authority;
3. It is obligatory; and
4. It is to be observed by everyone.

For people to be expected to abide by the Rule of Law, there must be a mechanism to enable them to know what the law is. Indeed, it would not be fair to punish anyone for the violation of a law which was not made known to the people in the first place.

The Rule of Law thus connotes a body of norms and laws made known to the public at large. It must not be subject to arbitrary change; it can only be amended under a certain set procedures. It is an elementary rule of fair play and justice that a reasonable opportunity to be informed must be afforded to the people who are commanded to obey, before they can be punished for its violation. A circular must first be published and the people officially and specially informed of the contents and penalties of the law before the public could be bound by its contents especially its penalties and punishments.



It is necessary, in a regime of law, that laws (1) are published; (2) are made known to the people; and (3) are amended only through a

prescribed process because everyone is conclusively presumed to know the law. This means that once the State has made a law known to the public, no one can claim that he does not know about it. Thus, everyone is deemed to know about a law that has been published.

Ignorance of the law excuses no one from compliance therewith.

Civil Code, Art. 3

The presumption therefore is, that once a law is made known to the public, the people *automatically* know about it. This is a legal fiction, meaning, that it may not be true in reality - that everyone knows about a published law. But this is a necessary presumption because of the obligatory force of law. Once the law is promulgated, it is the duty of everyone to know it. Otherwise, evasion of the law would be facilitated and the administration of justice defeated if persons could plead ignorance of the law to escape the legal consequences of their acts, or to excuse non-performance of their legal duties.

In addition, in a regime of law, laws cannot be made *perpetually* effective. There must be a mechanism to amend or repeal the same in order to make the law more responsive to the changing times. The Legislature must be able to amend the law as the need arises. These mechanisms for amendment must also be well-defined so that changes to the law are not made capriciously. Laws must be passed and amended using institutionalized mechanisms so that arbitrariness is avoided and stability ensured.



Some forms of law and the manner of their publication and amendment are discussed below:

1. **The Constitution**

The 1987 Constitution took effect on February 2, 1987 upon ratification by the Filipino people in a plebiscite. The plebiscite is the process by which the contents of the Constitution are made

known by the State to its citizens, and by which the collective consent of the citizens is secured by the State.

Amendments to the Constitution may be made in three ways:

- a. By Congress, upon a vote of three-fourths of all its Members (1987 Constitution, Art. XVII, Sec. 1, Par. 1)
- b. Through a Constitutional Convention (1987 Constitution, Art. XVII, Sec. 1, Par. 2)

The Congress may, by a vote of two-thirds of all its Members, call a constitutional convention, or by a majority vote of all its Members, submit to the electorate the question of calling such a convention. (1987 Constitution, Art. XVII, Sec. 3)

- c. Via people's initiative upon a petition of at least twelve per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters therein. (1987 Constitution, Art. XVII, Sec. 2)

The process of ratification is the act by which the State considers that the amendments or revisions to the Constitution are made known to the people, if such amendments or revisions are accepted.

2. **Statutes**

A **statute** is a law passed by a legislative body. In the Philippines, statutes are pieces of legislation passed by Congress.

There is a publication requirement for the effectivity of laws.

Laws shall take effect after fifteen days following the completion of their publication either in the Official Gazette, or in a newspaper of general circulation in the Philippines, unless it is otherwise provided ...

Civil Code, Art. 2

The clear object of Article 2 of the Civil Code is to give the general public adequate notice of the various laws which are to regulate their actions and conduct as individuals. Without such notice and publication, it would be unjust to punish or otherwise burden a person for the violation of a law of which he had no notice whatsoever.

Publication must be in full or it is no publication at all since its purpose is to inform the public of the contents of the laws.

How the Legislature Passes a Law⁴

Under the 1987 Constitution, for a bill to become law, it must first pass three readings on separate days in the House from where it originated, with printed copies thereof being distributed to the Members three days before its passage.

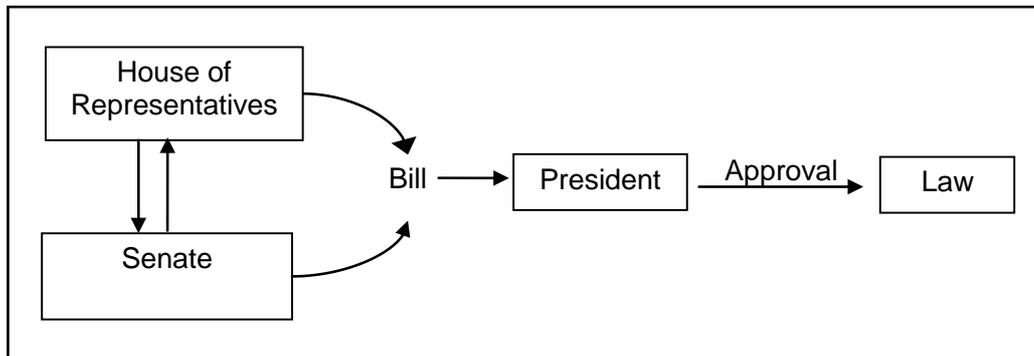
However, when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency, the presidential certification of a bill dispenses with the requirement for the printing of the bill and its distribution three days before its passage. The requirement of three readings on separate days is also dispensed with in case of a presidential certification of urgency.

There are five types of bills that can originate exclusively from the House of Representatives:

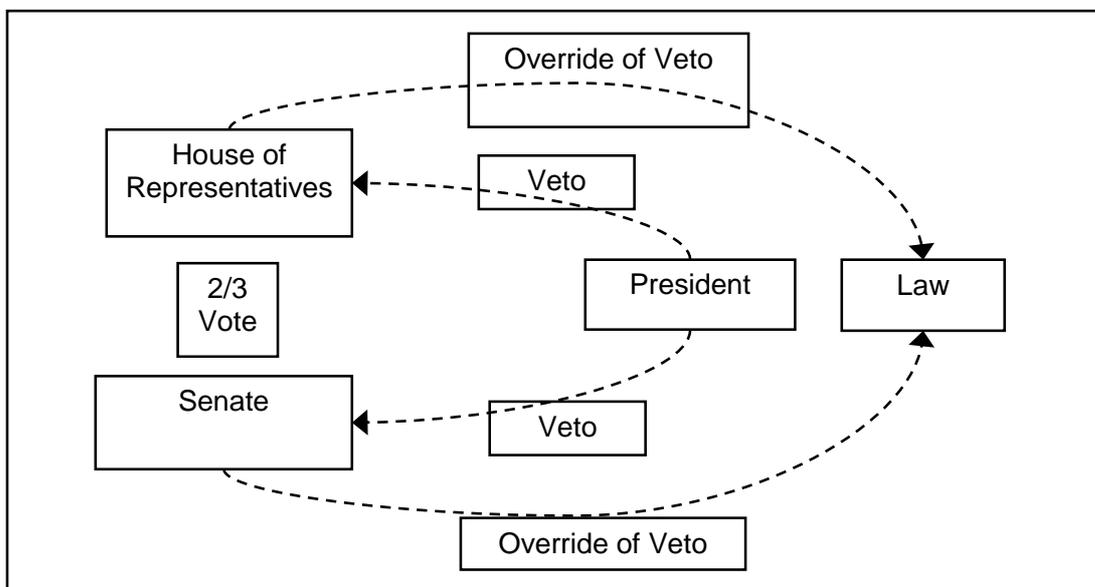
1. Appropriation
2. Revenue or tariff bills
3. Bills authorizing increase of the public debt
4. Bills of local application
5. Private bills

All other types of bills may originate either from the Senate or the House of Representatives.

⁴ See Annex C for the pertinent provisions of the 1987 Constitution on the Procedure for the Passage and Amendment of laws



After a bill passes Congress, the same is presented to the President for his approval. If the President signs the same, the bill shall become law. Otherwise, the President may **veto** it with his objections and return it to the House where it originated. If, despite objection by the President, the House sponsoring the bill votes to pass the bill with a two-thirds vote of all its Members, the bill shall be sent to the other House for approval. If the latter also votes to pass the bill with a two-thirds vote of all its Members, the bill shall become law, even without Presidential approval.



Amendments to statutes pass through the same procedure.

Points to Ponder on:

1. *Why is it important for people to know what the law is?*
2. *Why is it necessary to assume that the people know the law when the State publishes it, even if in reality, a person may not actually have read the published law?*
3. *If the responsibility of the State is to employ a mechanism to make the law known to the public, what is the responsibility of the citizen in this respect?*
4. *Especially in the medieval times, a monarchy allows one person to govern the State. There is no separation of powers. The King makes laws by royal decree and only he can amend it. He also implements the law. In this example, why is it dangerous for a King to have absolute power to pass, amend, or repeal a law?*
5. *How does the publication of laws contribute in upholding the Rule of Law?*
6. *How does a fixed mechanism for the passage and amendment of laws contribute in upholding the Rule of Law?*

Lesson 4

A System to Enforce State and Public Officers' Accountability

In general, the State cannot be sued without its consent. This is to enable the State authorities to proceed unimpeded with their task of governance. But in special instances, citizens may bring suit against the State. In enforcing one's rights, a citizen may be allowed to sue for himself and/or on behalf of others, when certain requirements are met.

This citizens' exceptional right to sue the State is vital in ensuring that the authorities zealously carry out their mandate of public service.

Apart from exacting obligations from the State in general, citizens may also compel individual public officials to discharge their functions honestly and diligently.

Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.

1987 Constitution, Art. XI, Sec. 1

In light of the above constitutional provision, government service is viewed as a privilege. Government officials are accountable to the people for their actions. They are expected to serve the people, not be masters of them. They are therefore, aptly called public servants.

The norms to be observed by public officers are exacting. They must comply with certain standards in the delivery of public service. They are prohibited from exploiting their office for monetary and other personal gain. Moreover, since they are able to wield immense power and authority emanating from the offices they occupy, public officers' actions must remain in check for excesses or abuse.

Public officials are expected to be committed to serve the public interest. They must be professional, just, and sincere. They must not be involved in politics. They must be responsive to the needs of the public. They must be nationalistic and patriotic. They must be committed to democracy, and lead simple lives.

Public officials may be punished with imprisonment if they violate criminal laws. Some acts for which criminal liability attaches to public officials include bribery, graft and corruption, and influence-peddling.

Moreover, in the interest of transparency, public officers are required to submit a statement of assets and liabilities, net worth, and financial and business interests, including those of the members of their family. This exercise of transparency is intended to deter such public officials from amassing wealth using their public office.

Wealth which cannot be explained (or “unexplained wealth”) is presumed to have been derived from an official’s public office. The law provides for the forfeiture of any property found to have been unlawfully acquired by any public officer or employee. Whenever any public officer or employee has acquired an amount of property which is manifestly out of proportion to his salary and to his other lawful income, the property shall be *presumed* to have been unlawfully acquired.

Public officers are also required to divest from any business to avoid conflict of interest.

Even the families of public officials are expected to comply with certain norms, and avoid exploiting the position of such public official. Our laws not only prohibit public officers from abusing their offices; they also sanction acts committed by the relatives and friends of public officials who misuse the latter’s office.

Impeachment⁵

It is evident that under the Rule of Law, thus, no one is above the law, not even the highest officials of the land. The weight of the law falls equally on public officers, as they do on the common man. This is because all men are equal.

For this reason, the 1987 Constitution provides for a mechanism for the removal from office of the country’s highest officials, by way of impeachment.

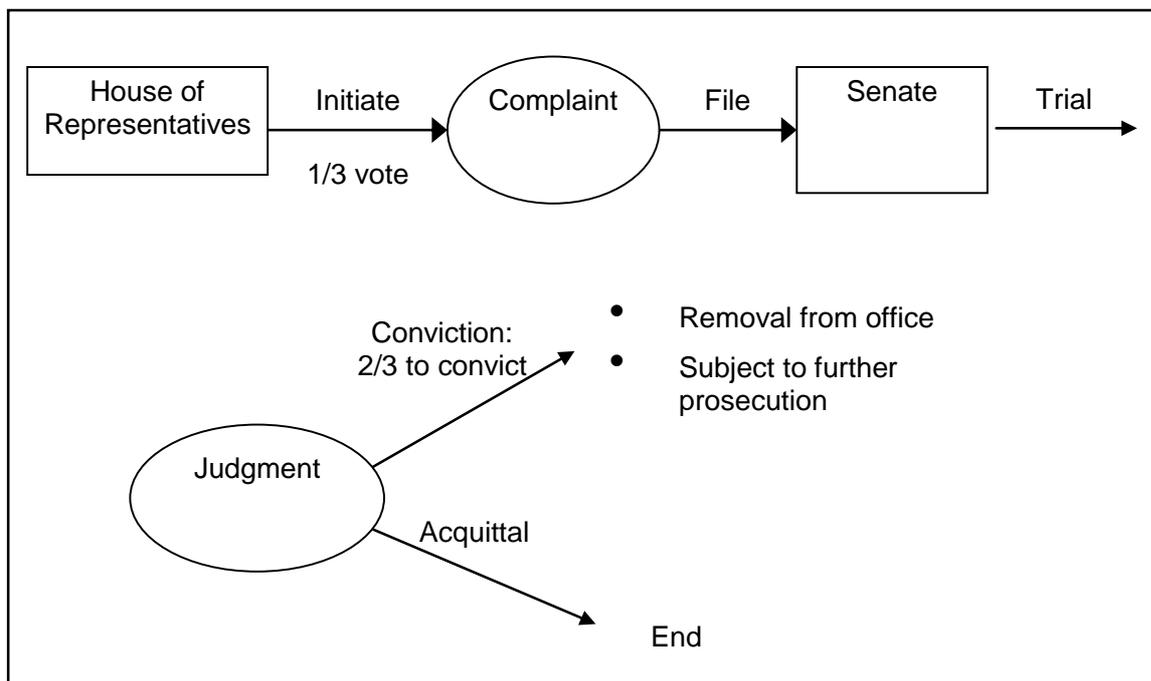
Impeachment applies to the President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman. The offenses for which these officers

⁵ See Annex D for the pertinent provisions of the 1987 Constitution on the procedure for impeachment

may be impeached are: culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, and betrayal of public trust.

The House of Representatives initiates a complaint for impeachment against the above officials. If the House decides to file the impeachment complaint upon a 1/3 vote of all its Members, the trial shall proceed in the Senate. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside. To convict an official, the concurrence of two-thirds of all the Members of the Senate is needed.

Judgment in cases of impeachment shall mean removal from office and disqualification to hold any office under the Republic of the Philippines. The person convicted shall also be liable and subject to prosecution, trial, and punishment, according to law.



No one is above the law or the Constitution. This is a basic precept in any legal system which recognizes equality of all men before the law as essential to the law's moral authority and that of its agents to secure respect for and obedience to its commands.

The Supreme Court in *Francisco, Jr. v. The House of Representatives*

Points to Ponder on:

1. *Why must citizens be allowed in certain instances to sue the State?*
2. *Why must public officers serve the public well?*
3. *What are the characteristics of a good public servant?*
4. *What can citizens do if they believe a public official is misusing his office for personal gain?*
5. *Do citizens have a remedy if the family members of a public official exploit the office of the latter for private gain? What remedy is this?*
6. *When a public official occupies the highest seat in the land, does this mean that his actions are beyond reproach? Why or why not?*
7. *What does it mean to say that no one is above the law?*
8. *What is impeachment?*
9. *How does a system to enforce public accountability contribute in upholding the Rule of Law?*

Enrichment Exercise:

In popular culture, what is the traditional image of the government official? Would you eventually like to become a public official? Why or why not? Share your insights with your seatmates.

BOOK FOUR
(For Fourth Year High School)

STATE REGULATION OF RELATIONS AMONG PEOPLE

Lesson 1 (Review)

The Tenets of the Rule of Law in the Philippines

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For the Rule of Law to subsist, certain structures must exist in a society. In the Philippines, it can be said that there are generally nine tenets by which the Rule of Law prevails. Some of the principles may be logically subsumed in or related to the others. The following classification of tenets is nonetheless being made to emphasize the importance of each in building and maintaining a regime of law.

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The next set of tenets pertains to measures regulating the relations of the State with its people:

4. Respect by the State for People's Rights
5. Mechanism for the Passage of Laws
6. A System for State and Public Officers' Accountability

The next set of tenets refers to mechanisms for the regulation of the relations among people:

7. Criminal Law Enforcement
8. Laws for the Protection of Property and Contractual Rights
9. Mechanism for Dispute Resolution, and Access to Justice

Tenets 7 through 9 will be discussed in this Book.

Lesson 2

Criminal Law Enforcement

Criminal Law: Definition, Philosophies, Sources

Criminal law is that branch or division of law which defines crimes, treats of their nature, and provides for their punishment.

2 Cyc. 129

A crime is an act committed or omitted in violation of a public law forbidding or commanding it.

I Bouvier's Law Dictionary,
Rawle's Revision, 729

Penal or criminal laws and those of public security and safety apply to all people who live or travel in the Philippines.

One of the foundations of the Rule of Law is strong criminal law enforcement. Because of the punishment attached to the commission of criminal acts, potential wrongdoers will be more prudent in their actions towards their fellowmen. A finding of criminal liability will also entitle the victim to recompense or restitution from the wrongdoer.

Moreover, effective criminal law enforcement will deter victims from taking justice into their own hands and retaliating against the wrongdoer. If they see that the criminal justice system works, they will then submit to the system rather than take personal action. Conversely, if the criminal justice system does not work and victims see that the offenders are able to get away with impunity, victims will likely avenge the wrong done to them. These acts of violence may constitute a cycle, and would be harmful to society.

Effective criminal law enforcement will therefore make relations among people less injurious.

Ultimately, however, the right to prosecute and punish for a crime belongs to the State. The State has an interest in doing this in order to

deter the commission of crimes, and thus preserve peace and order in the community. A State has the inherent right to protect itself and its citizens from wrongdoing and extermination. If crime is unabated, there will be anarchy. The prosecution and punishment of crimes is thus necessary for the survival of the State.

The basis of criminal responsibility is the existence of the offender's free will. If he knows the ill consequences of his intended actions but nonetheless proceeds to act it out, then he must be held liable.

The sources of criminal law in the Philippines are:

1. The Revised Penal Code (Act No. 3815) and its amendments
2. Special penal laws passed by the Legislature

There reasons for imposing punishment for crimes are:

- (a) The prevention of crimes
- (b) Self-defense by the State
- (c) Reformation of the wrongdoer
- (d) Retribution or punishment upon the wrongdoer

The actors that participate in the criminal justice system are the police force, the prosecutor, the private complainant, the accused, the defense attorney, and the courts.

Members of the police force typically identify suspects, investigate the incident, and provide the initial information which will be used in the case. The prosecutor conducts a preliminary investigation on the complaint. If he finds probable cause, then an information (or charge) is filed against the respondent in court. The prosecutor is also in charge of pursuing the case in court and proving the guilt of the accused beyond reasonable doubt. The private complainant is the offended party or the person who suffered the injury because of the wrongful act. The accused is the person who is brought to trial for the commission of the offense. The defense attorney may be a private lawyer who defends the accused in court. If the accused is unable to secure the



services of a private lawyer due to meager resources, the Public Attorney's Office will provide the services of a government lawyer, free of charge. The court is the office which decides the case and determines whether the accused is guilty or not. Further, there is an elaborate procedure available to the accused to elevate his case all the way up to the Supreme Court.

Youthful Offenders

Recognizing that the child is one of the most important assets of a nation, a special law was promulgated to lessen the criminal liability of individuals who are below 18 years of age, the *Juvenile Justice and Welfare Act of 2006*. Under this law, the age of criminal responsibility is established at 15 years. A child between 15 and 18 can be charged only if it is proven that he or she committed the act with full knowledge that it was a crime.

Points to Ponder on:

1. *Why must wrongdoers be punished?*
2. *What is the interest of the State in enforcing criminal law? What will be the effect on the State if wrongdoers are not punished?*
3. *Why should you not take the law into your own hands by retaliating against a person for a wrong act done to you?*
4. *What will happen if people start to retaliate for criminal acts committed against each other, rather than bringing the wrongdoer to justice?*
5. *What must you do when somebody commits a criminal act against you?*
6. *Why is there a need for a special law for youthful offenders?*
7. *How does criminal law enforcement contribute in upholding the Rule of Law?*

Enrichment Exercise

Watch a local or foreign film depicting youthful offenders below 18 years old in jail, or research on the issue of juvenile delinquency. Why do children land in jail? How do the authorities treat youthful offenders? Do you agree or disagree with the treatment of youthful offenders? Why or why not? Share your insights with your seatmates in the next meeting.

Lesson 3

Laws for the Protection of Property and Contractual Rights

Protection of Property Rights

Rights in property means that the owner has the exclusive right to enjoy and dispose of a thing. The owner of a thing also has the right to exclude any other person from the enjoyment and disposition of the object.

The recognition and protection of property rights is essential under the Rule of Law to provide security and continued incentive for people to work or conduct business. Hence, ownership of property and the free exercise of the incidents of ownership must be protected by law.

Tangible (or physical), as well as intangible (not physical) property rights must be recognized.



Thus, intellectual property rights, which are intangible, also enjoy protection under the law. Examples of intellectual properties are literary, dramatic, historical, legal, philosophical, scientific or other work; musical compositions; artwork; and discoveries and inventions.

The writer, composer, or inventor is recognized by the law as the owner of the work which he created, and is entitled to property rights over the work.

Application:

Your teacher required the members of the class to do homework, for submission the following day. This is an essay on a particular topic. You wrote your essay at home, but your seatmate copied it in class and submitted it as his own, before you could submit yours.

You have the right to disclose to the teacher the theft of your work by your classmate since you are the owner of the essay.

Enforcement of Contractual Rights

Another important principle under the Rule of Law is a regime or system for the **enforcement of contracts**. A contract is a binding agreement, and constitutes the law between the parties. Often, a contract involves a property or some other economic right.

Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.

Civil Code, Article 1159



Ideally, even without State intervention, the parties to a contract should comply with their respective obligations. This is because the party relying on the promise of the other will necessarily fashion his plans based on such promise. If a party does not meet his obligation, this will cause dissatisfaction and often, a dispute. If the parties are unable to settle the controversy themselves, they may employ the judicial system to resolve the issue. In the end, the objective is to protect the rights of the aggrieved party, and compel the erring party to comply with his obligations.

On a larger scale, an effective property protection system will attract more domestic and even foreign investments, since investors will feel secure that their property rights will be protected and that they will consequently get a fair return on their investment. Investments will create more employment opportunities, enhance the quality of life, and produce overall improvement in the economy of the country.

Application:

To augment your family income, your mother sells home-baked cakes in her office. One of her officemates orders, receives, and consumes ten cakes, but fails to pay your mother. Consequently, your mother is now unable to continue her small business, because her capital has been depleted in baking the cakes for which she did not get paid.

Your mother has the right to compel her officemate to pay for the cakes which were received.

Points to Ponder on:

- 1. In the first example above, is the act of your classmate in copying your essay, and submitting it to the teacher as his own, fair? What will happen if your classmate succeeds in his misconduct?*
- 2. In the second example above, is the failure of the officemate to pay your mother, fair? What will happen if your mother is not paid for the cakes she delivered?*
- 3. How do you want your classmates to treat your property, such as your books and money? Do you do the same thing to the property of your classmates?*
- 4. What must you do when you enter into an agreement with another? Why?*
- 5. What would be the effect if property rights are not protected?*
- 6. What would be the effect if contractual obligations are not met?*
- 7. How do laws for the protection of property and contractual rights contribute in upholding the Rule of Law?*

Lesson 4

Mechanism for Dispute Resolution, and Access to Justice

Disputes are inevitable in the course of life. When controversies arise, it is still best for the people involved to resolve their differences on their own, rather than invoke State intervention. This is because going through the judicial system will take more time, be more costly, and be more burdensome, compared to the alternative where the parties resolve the problem on their own.

Thus, the State actively promotes party autonomy in the resolution of disputes, or the freedom of the parties to make their own arrangements to resolve their disputes. Laws encourage and actively promote the use of **Alternative Dispute Resolution (ADR)** as an important means to achieve speedy and impartial justice, and declog court dockets.

Alternative Dispute Resolution System means any process or procedure used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a court or an officer of a government agency, in which a neutral third party participates to assist in the resolution of issues, which includes arbitration, mediation, conciliation, early neutral evaluation, mini-trial, or any combination thereof.

Section 3 (a), Republic Act 9285

While **arbitration** is an out-of-court procedure, the arbitrator is nonetheless authorized to render a decision or award which will bind both parties, whether one or both of them may agree with it or not.

Mediation or **conciliation**, on the other hand, seeks a voluntary settlement agreement between the parties. Both parties must be amenable to the settlement in mediation or conciliation.

Arbitration means a voluntary dispute resolution process in which one or more arbitrators, appointed in accordance with the agreement of the parties, or according to certain rules, resolve a dispute by rendering an award.

Section 3 (d), Republic Act 9285

Mediation means a voluntary process in which a mediator, selected by the disputing parties, facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute.

Section 3 (q), Republic Act 9285

At the barangay level, there is also an institutionalized mediation and conciliation procedure, making referral to the said local conciliation procedure or ***katarungang pambarangay*** a general precondition to filing a complaint in court. This means that if the parties do not undergo the katarungang pambarangay (when it is applicable), they will not be able to file a case in court.

However, if all these alternatives still fail to resolve the controversy between the parties, they would be free to invoke the traditional court system by instituting the appropriate case. Recourse by the parties is generally available through the hierarchy of the courts, all the way up to the Supreme Court.

It is important for upholding the Rule of Law, however, that there is easy access to the justice system by everyone, most especially the poor. Otherwise, the rights of the poor will be put to naught if they cannot enforce the same using the justice system. Often, what this requires is that the costs of litigation and enforcement be reasonable.

In this light, most court fees are assessed based on the value of the property or issue under dispute. This assumes that where the property is more valuable, then the persons involved have more resources to file a case.

A person can also sue as a pauper litigant to avail of further reduced rates.

And in the area of criminal law enforcement, the accused who cannot afford the services of a private lawyer will be provided by the State with free legal services through a public attorney.

A Brother Who Sins: “If your brother sins against you, go and tell him his fault between you and him alone. If he listens to you, you have won over your brother. If he does not listen, take one or two others along with you, so that every fact may be established on the testimony of two or three witnesses. If he refuses to listen even to the church, then treat him as you would a Gentile or a tax collector.”

The Holy Bible, Matthew 18:15-17

Settlement with an Opponent: “Why do you not judge for yourselves what is right? If you are to go with your opponent before a magistrate, make an effort to settle the matter on the way; otherwise your opponent will turn you over to the judge, and the judge hand you over to the constable, and the constable throw you into prison. I say to you, you will not be released until you have paid the last penny.”

The Holy Bible, Luke 12: 57-59

Application:

Two siblings from one family, Ruby and Maria, are fighting over a piece of land which was left to them by an uncle who passed away. Ruby wants to sell the land and divide the proceeds between them. On the other hand, Maria wants to own and use the land for herself. Ruby proposed that Maria pay half the value of the land so that Maria can own the whole property. However, Maria did not have enough money to do so. Because they could not agree on a course of action, the land remained unused and could not be disposed.

Ruby asked their aunt to intervene and convince Maria to sell the land, but Maria still did not agree. Time passed and neither sister changed her decision. In the meantime, the land remained unused.

Ruby was constrained to file a case in court against Maria so the property could be divided. Each had to engage the services of a lawyer and Ruby paid filing fees for the case. Before the case could proceed, they needed to undergo mediation where they appeared before a mediator (not a judge) who tried to convince them to settle the case.

During the mediation process, the sisters agreed that Ruby will sell her share in the property to Maria. Because Maria did not have the full amount for Ruby's share in the property yet, she paid a downpayment for Ruby's share in the lot and promised to make monthly payments to Ruby for the balance.

While Ruby did not receive full payment for her share over the lot right away, the case was terminated because of the settlement agreement. Ruby received the whole amount for her share eventually because Maria made good her promise to pay Ruby.

If the sisters did not agree to settle the case at the mediation stage, the case would have proceeded to court. The sisters would have spent a considerable amount for the lawyers, and the case could have dragged on for many years. And in the end, what the sisters would have obtained from the court was a decision dividing the property between Ruby and Maria anyway. After all, they are co-owners over the land, and thus have equal rights over the property.

By agreeing to the settlement reached at the mediation level, the sisters were able to avert a costly and lengthy litigation.

Points to Ponder on:

- 1. In the example given above, how was the dispute between Ruby and Maria resolved?*
- 2. Why was the settlement of their dispute through mediation a better method than going through the courts?*
- 3. If the sisters were not able to settle their dispute amicably through mediation, what else could they have done to resolve the issue?*
- 4. How does a mechanism for dispute resolution contribute in upholding the Rule of Law?*

5. *In case an amicable settlement of a dispute is not possible, can the aggrieved party use the court system to protect or enforce his or her rights?*
6. *Why is it important that the cost for the protection of rights, including pursuing a case in court, be reasonable?*
7. *What will happen if the cost for filing a case in court becomes exorbitant?*
8. *How does access to justice contribute in upholding the Rule of Law?*

BOOK FIVE

(For All Year Levels)

LESSONS LEARNED

You have just finished reading the book for your year level and learned about the Rule of Law. However, there is something more important than the facts you learned about our Government and what the current laws may be. What is more significant are the values that you should have learned from your reading. These values will transcend any changes in our Government or the law. Because whatever our form of Government will be, or whatever law is passed, it is adherence to these values that will ultimately uphold the Rule of Law.

In its simplest sense, the Rule of Law connotes rule-based governance and obeisance. The principle is intended to be a safeguard against arbitrary action and ensure stability in the legal order. The Rule of Law serves to regulate the interplay of action among the State and its people.

In turn, a stable legal order plays an indispensable role in development, as well-functioning legal institutions and a State bound by the rule of law propel a country to civil, political, and economic development.

In general, you should understand that:

1. The Rule of Law must be observed both by the State and the individual; there must be mutual respect between the State and its citizens.
2. The Rule of Man is susceptible to despotism or abuse. The Rule of Law takes away arbitrariness in governance.
3. When the Rule of Law is upheld, there is peace, order, stability, and prosperity in society.

Here are some core messages and value propositions on the Rule of Law *for the State*:

1. All men are equal.
No one is above the law.

Arbitrariness in the discharge of official functions must be avoided. The law must be applied diligently and equally to all, without fear or favor.

The State must make the justice system accessible to the rich and the poor alike.

2. The guiding principle of the State in governance must be the general welfare of its constituents.
The State must not use its powers and resources to abuse the people.
Disadvantaged sectors of society must be empowered to enable them to realize their full potential.
3. The different organs of Government must play their respective parts to achieve their unified objective.
The various offices of Government must coordinate and support each other to attain their common objective of good governance.
4. The sovereign will of the people must be upheld at all times.
The people's collective will in choosing their leaders must be respected.
5. The State must respect citizens' rights.
The State must observe the procedure laid down by the law when it takes action against a person and/or his property.
6. The State must enact laws suited to the customs, values, and belief systems of its people.
7. Laws must be made available to the public for their appropriate guidance.
8. Public office is a public trust; public officials are accountable to the people.

Here are some core messages and value propositions on the Rule of Law *for the individual*:

1. We have obligations we need to observe toward the State, as well as our fellow human beings.
2. We must be diligent in knowing the law because we are bound by it.

3. Everyone must follow the rules and obey the law.
Violation of the law will have consequences.
4. A good public servant must possess certain characteristics and values.
We must select our leaders wisely.
5. We must participate in nation-building.
We can and must take action when we want to introduce changes in the legal system.
6. We must do unto others what we want others to do unto us.
7. We are a part of a larger interest than ourselves. We are a part of society.
What we do affects others.
8. Rights have concomitant obligations.
While we possess rights, these must be exercised fairly, wisely, and responsibly.
We must recognize and respect the rights of others.
9. We must act fairly.
We must observe the procedure laid down by the law when we enforce our rights.
We should not take the law into our own hands; when we are wronged by someone, we should ventilate our grievances in the proper forum.
10. We should live up to the obligations that we commit to perform.
We must respect the property rights of others.
11. Before being adversarial towards an opponent, we must try to settle a dispute amicably because everyone would be better off by it.

What values did you learn other than these?

ANNEX A

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has the right to life, liberty and the security of person.

Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9: No one shall be subjected to arbitrary arrest, detention or exile.

Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11:

1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or

international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13:

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14:

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15:

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20:

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25:

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27:

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

ANNEX B

ARTICLE III, 1987 CONSTITUTION

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

Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

Section 6. 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 in the interest of national security, public safety, or public health, as may be provided by law.

Section 7. The right of the people to information on matters of public concern shall be recognized. Access to official 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 such limitations as may be provided by law.

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 shall not be abridged.

Section 9. Private property shall not be taken for public use without just 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 confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation for the rehabilitation of victims of torture or similar practices, and their families.

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. (1) No person shall be detained solely by reason of his political beliefs and aspirations.

(2) No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.

Section 19. (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to *reclusion perpetua*.

(2) 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.

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 a law and an ordinance, conviction or acquittal under either 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.

ANNEX C
PROCEDURE FOR PASSAGE AND AMENDMENT OF BILLS

Pertinent Provisions of Article VI of the 1987 Constitution

Section 24. 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 House of Representatives, but the Senate may propose or concur with amendments.

Section 26.

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

Section 27.

1. Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same he shall sign it; otherwise, he shall veto it and return the same with his objections to the House where it originated, which shall enter the objections at large in its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the Members of such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of all the Members of that House, it shall become a law. In all such cases, the votes of each House 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 House where it originated within thirty days after the date of receipt thereof, otherwise, it shall become a law as if he had signed it.
2. 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.

ANNEX D
IMPEACHMENT PROCESS
Pertinent Provisions of ARTICLE XI of the 1987 CONSTITUTION

Section 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

Section 3.

1. The House of Representatives shall have the exclusive power to initiate all cases of impeachment.
2. A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution or endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.
3. A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of 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 one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.
5. No impeachment proceedings shall be initiated against the same official more than once within a period of one year.
6. The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

7. Judgment in cases of impeachment shall not extend further than removal from office and 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.
8. The Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section.

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