

**CMFP DRAFT CONSTITUTION FOR A
FEDERAL REPUBLIC OF THE PHILIPPINES
WITH A PARLIAMENTARY GOVERNMENT**

by

Citizens' Movement for a Federal Philippines (CMFP)
{Revised February 14, 2005}

Edited by
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Editor's Note.

Sustaining Filipino constitutional democracy under the 1987 Constitution. *The CMFP is proposing the revision of the 1987 Constitution along the lines of this CMFP Draft Constitution for a Federal Republic of the Philippines with a Parliamentary Government.*

However, we believe that the approval by the Filipino electorate of the proposed revision of the 1987 Constitution should not result in a change in the name of that Constitution. The Constitution as revised and approved or ratified should simply be called *The 1987 Constitution as Revised.*

*The retention of the title, “**The 1987 Constitution,**” and then adding “**as Revised,**” will give us a sense of the continuity of our constitutional democracy which began with the 1935 Constitution. It was destroyed by Ferdinand Marcos when he ruled under his authoritarian regime from September 1972 to February 25, 1986. It was restored through the EDSA “people power” revolution on February 25, 1986 and under the 1987 Constitution.*

Recall that the Philippines has adopted five constitutions since 1935 or the last 70 years:

- (1) the 1935 Constitution for the Philippine Commonwealth and the Republic of the Philippines,*
- (2) the 1943 Constitution under the Japanese occupation,*
- (3) the 1973 Constitution during the Marcos authoritarian regime,*
- (4) the 1986 Freedom Constitution during the first year of Corazon Aquino's presidency, when she governed under a democratic revolutionary government and abolished 1973 Constitution, and*
- (5) the 1987 Constitution.*

To have five constitutions since we regained our independence in 1946—a period of some 60 years—reflects our inability to consolidate our constitutional democracy and our continuing political instability as a nation-state.

It is therefore important to sustain and strengthen our constitutional democracy by continuing to develop it under the 1987 Constitution that enabled us to end authoritarianism and resume building our constitutional democracy.

Essential Continuity with the 1987 Constitution. *In preparing this **CMFP Draft Constitution** for a Federal Republic of the Philippines with a Parliamentary Government, we maintain essential continuity with the 1987 Constitution in regard to:*

- (1) the Preamble,*
- (2) the Article on the National Territory,*
- (3) the Article on Declaration of Principles and State Policies,*
- (4) the Article on the Bill of Rights,*
- (5) the Article on Citizenship,*
- (6) the Article on Suffrage, and*
- (7) the Article on the Constitutional Commissions.*

Some fundamental changes and revision. *However, we propose the revision of the 1987 Constitution in certain fundamental ways: mainly the shift from the Unitary System to a Federal System and from the Presidential Government to a Parliamentary Government, and certain changes in the Judiciary.*

We have also added a Bill of Duties and Obligations to the Bill of Rights and an Article on Political Parties and made a few minor amendments here and there.

Sources of our ideas for revising the 1987 Constitution. *The specific sources of the various provisions of our **CMFP Draft Constitution** are indicated in the Editor's notes and the texts.*

In some instances, the writers underline the words and provisions they suggest as amendments to, or revisions of, the 1987 Constitution, or enclose in brackets [] the words they propose to be deleted.

*For convenience in reading and studying the **CMFP DRAFT CONSTITUTION**, we have introduced a title for every Section which we underline. (Our previous constitutions and the 1987 Constitution do not have titles for their various sections.)*

*Like our earlier drafts, this latest **CMFP Draft Constitution** embodies ideas and revisions contributed by the Federalism Research Project of Kalayaan College at Riverbanks, Marikina, the Convenors of Lihuk Pideral Mindanao—now expanded nationwide as the Citizens' Movement for a Federal Philippines (CMFP)—and various scholars and participants, mostly from academia and civil society, in many meetings and workshops held in various parts of the country since 2002.*

*The most important foreign sources of constitutional ideas that we tapped are the various constitutions and publications consulted by the Federalism Research Project of the Center for Social Policy and Governance of Kalayaan College at Riverbanks Center, Marikina, headed by Dr. Jose V. Abueva. These sources are listed at the end of this **CMFP Draft Constitution**.*



Preamble

[This is the Preamble of the 1987 Constitution as amended]

We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a peaceful, just and humane society and establish a Government of integrity and competence that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity the blessings of independence, democracy, and a thriving national economy (*From Rodolfo Vicerra*) under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution of the Federal Republic of the Philippines.

ARTICLE I. The National Territory

[As in the 1987 Constitution]

ARTICLE II. Ang Republica Federal ng Pilipinas (the Federal Republic of the Philippines)

[Proposed by the Citizens' Movement for a Federal Philippines (CMFP)]

Editor's Note. Why change to a Federal Republic? How do we justify a shift to the Federal System from our traditional Unitary System.

In the first place in our traditional Unitary System the powers, authority, and resources of the Republic are concentrated in the National Government: the President, Congress, the Judiciary, the national executive departments and agencies, and the government corporations.

The President exercises general supervision as well as actual control over all local governments. Congress legislates on all subjects including local issues. Most decisions are therefore made at the national capital region of Metro Manila.

The "local autonomy" principle in the 1987 Constitution and the Local Government Code of 1991 are supposed to promote decentralization and actual devolution or transfer of powers and functions from the National Government to the local governments.

In practice, the National Government is still highly centralized. It continues to make most decisions and forces local government leaders to come to the national capital to follow up on their resolutions and requests by practically begging national offices to make those decisions, wasting much time and money in doing so. Even the share of the local governments of the Internal Revenue Allotments may be reduced or delayed contrary to law.

The more popular proposal to change our Presidential System to a Parliamentary System is only one of the two vitally needed structural and institutional changes in our traditional form of government. The other is the shift from our highly centralized and obsolete Unitary System that treats the local governments and communities as dependent colonies of the national government—to a modern, functional, decentralized Federal System.

Without this even more important constitutional reform, the political leaders in the new Parliamentary System will happily continue to exercise and enjoy the centralized governmental power of the old unitary system as their imperial prerogative and monopoly. With this undue advantage, they will perpetuate their traditional centralized control and domination over the powers, authority and resources of the National Government at the expense of our weak and dependent local governments and communities.

The Unitary System is certain to perpetuate the stagnation of our economy and society, the impoverishment of many of our people who live in the countryside, and our backwardness in relation to our neighbors in Asia.

The Advantages of Federalism. *The proposed **Federal Republic** or Federal System is based on the so-called principle of “dual sovereignty.” According to this the **CMFP Draft Constitution** provides that governmental powers shall be distributed and shared between the Federal Government (National Government) and the States (Regional Governments) and their local governments.*

Federalism is related to the principle of “popular sovereignty” which states: “Sovereignty resides in the people and all government authority emanates from them” (Article II, Section 1). There is a constitutional partnership in democratic governance in which the States exercise substantial powers and functions with the needed resources or funding.

In brief, these are some of the specific and concrete advantages of Federalism.

First, a Federal Republic will build a just and enduring framework for peace through unity in our ethnic, religious, and cultural diversity, especially in relation to Bangsa Moro or Muslim Filipinos. Responsive Federalism will accommodate their legitimate interests, end the war in Mindanao, and discourage secessionism.

Second, Federalism will empower our citizens by enabling them to raise their standard of living and enhance their political awareness, participation and efficacy in elections and the making of important government decisions. Governance will be improved and corruption will be reduced by the new division of powers and functions between the Federal Government and the States, and by the transparency of governance and its accessibility to the people in the regions, cities, provinces, and municipalities.

Third, Federalism will improve governance by empowering and challenging State and local leaders and entrepreneurs around the country. It will release them from the present stifling central government control and regulation. It will compel them to assume greater responsibility for leadership and delivery of services and business, and reduce their dependence on the national government. As the people will be more involved in government decisions, they will demand superior performance and public accountability of their political leaders and officials. At the same time, the people will be more willing to pay taxes that will finance government programs and services for their direct benefit.

Fourth, Federalism will hasten the country's development. Improved governance at the national level and in the States and localities will stimulate economic, social, cultural, and political development. There will be inter-State and regional competition in attracting domestic and foreign investments and industries, professionals and skilled workers, good teachers and scholars, artists, and tourists. A renaissance of regional languages and cultures will enrich the national language and culture. The Federal Government will help support the less endowed and developed regions, and the poor and the needy across the land, thus promoting a more equitable development.

Fifth, Federalism, together with parliamentary government, will improve governance by promoting the development of program-oriented political parties that are responsible and accountable to the people for their conduct and performance in and out of power.

Sixth, Federalism will broaden and deepen democracy and make its institutions deliver on the constitutional promise of human rights, a better life for all, a just and humane society, and responsible and accountable political leadership and governance.

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**Section 1. The Federal Republic of the Philippines.** The Federal Republic of the Philippines consists of the *Federasyon* (Federation) and New Manila—the Federal Capital to be planned and built in the Clark Special Economic Zone in Pampanga—and the ten constituent *Estados* (States) and their local governments.

**Section 2. The Ten Estados.** Each *Estado* (State) is an autonomous regional government of the Federal Republic. The territory of the different *Estados* is determined by a combination of geographic contiguity of their component areas, their ethnic, linguistic and other cultural aspects, and their socio-economic potential and viability. From south to north, the *Estados* are the following:

1. **Bangsamoro** [ARMM: Lanao del Sur, Marawi City, Maguindanao, Basilan, Sulu, Tawi-Tawi];
2. **Central and Southern Mindanao** [Region XI: Compostela Valley, Davao, Davao Oriental, Davao del Sur, South Cotabato, Sarangani; Region XII: Cotabato, Sultan Kudarat, Lanao del Norte];

3. **Northern and Western Mindanao** [Region IX: Zamboanga del Norte, Zamboanga del Sur, Zamboanga Sibugay; Region X: Bukidnon, Camiguin, Misamis Occidental, Misamis Oriental; Caraga Region: Agusan del Norte, Agusan del Sur, Surigao del Norte, Surigao del Sur];
4. **Eastern Visayas** [Region VII: Negros Oriental, Cebu, Bohol, Siquijor; Region VIII: Biliran, Leyte, Southern Leyte, Northern Samar, Samar (West), Eastern Samar];
5. **Western Visayas-Palawan** [Region IV: Palawan; Region VI: Aklan, Antique, Capiz, Guimaras, Iloilo, Negros Occidental];
6. **Bicol** [Region V: Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon; Region IV: Romblon];
7. **Southern Luzon** [Region IV: Rizal, Quezon, Laguna, Batangas, Aurora, Cavite, Mindoro Occidental, Mindoro Oriental, Marinduque];
8. **Metro Manila** [Manila, Quezon City, Makati City, Mandaluyong City, Pasig City, Pasay City, Marikina City, Caloocan City, Muntinlupa City, Las Piñas City, Parañaque City, Valenzuela City, Navotas, Malabon, Taguig, Pateros, San Juan];
9. **Central Luzon** [Region III: Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales]; and
10. **Northern Luzon and Cordillera** [Region I: Ilocos Norte, Ilocos Sur, La Union, Pangasinan; Region II: Batanes, Cagayan, Isabela, Nueva Vizcaya, Quirino]; [Cordillera Administrative Region: Abra, Apayao, Benguet, Ifugao, Kalinga, Mt. Province].

### **ARTICLE III. Declaration of Principles and State Policies**

**Editor’s Note.** *This is Article II in the 1987 Constitution as slightly amended. To focus on the most important amendments, we include here only the most pertinent amended provisions for the Federal Republic with a Parliamentary Government. Here we exclude the provisions that are proposed to be retained as they are without any change.*

*In the 1987 Constitution, the term “State” refers to the Republic of the Philippines or the Philippines as a whole because it is a unitary State. However, in this CMFP Constitution for the Federal Republic of the Philippines with a Parliamentary Government, the term “State” refers to each of the ten States that make up the Federal Republic of the Philippines, so we use the term “Federal Republic” or “The Philippines” to refer to the whole Federal Republic of the Philippines and the States. Unless otherwise indicated, the amendments are suggested by the Federalism Research Project.*



## Principles

**Section 1.** Representative democracy, federal and parliamentary. The Philippines is a democratic [and republican State] federal republic with a parliamentary government. Sovereignty resides in the people and all government authority emanates from them.

**Section 3.** Civil-military relations. Civilian authority is, at all times, supreme over the military. Under civilian authority, the Armed Forces of the Philippines assists the Federasyon (Federation) and the Estados (States) in protecting the people and [the State]. [Its goal is to] in securing the sovereignty of the [State] Federal Republic and the integrity of the national territory.

**Section 4.** The Federal Republic and the citizens. The prime duty of the Federal Republic [Government] is to serve and protect the people. The Federal Republic [Government] may call upon the people to defend itself [the State] and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal, military or civil service.

**Section 5.** The blessings of democracy, good governance. The maintenance of peace and order, the protection of life, liberty, and property, the promotion of economic growth and efficiency, and the enhancement (*From Rodolfo Vicerra*) of the people's well-being and general welfare are essential for the enjoyment by all the people of the blessings of democracy.

## State Policies

**Section 9.** Effective party system. The Federal Republic shall promote the development of an effective party system for the proper functioning of representative democracy and the parliamentary government in the Federasyon (Federation) and in the Estados (States).

**Section 10.** [23] Civil society. The Federal Republic [State] shall empower [encourage] civil society through its non-governmental, community-based, or sectoral organizations, and its professional and civic associations and foundations -- that promote the welfare of the nation.

**Section 21.** [19] Economic development. The Federal Republic [State] shall develop a self-reliant, productive and competitive [independent national] economy that will best serve the interest of the Filipino people [effectively controlled by Filipinos]. (*From the Report of the Preparatory Commission on Constitutional Reforms, Office of the President, 1999.*)

**Section 24.** [22] Indigenous peoples, cultural communities. The Federal Republic [State] recognizes and promotes the rights of indigenous peoples and cultural communities within the framework of national unity and development.

**Section 25.** [24] Learning, nation-building, cultural development. The Federal Republic [State] recognizes the vital role of learning and communication [and information] in nation-building and promotes the joint development of the national language and culture and the regional languages and cultures, to enrich and enliven the people's lives and strengthen national unity in diversity.

**Section 26.** [25] Autonomy and economic viability of States and local governments. The Federal Republic [State] shall ensure the autonomy and promote the economic viability of the States and their constituent local governments. The Parlamento (Parliament) shall provide a program of partnership aid to the various Estados (States) in support of their development programs and the basic needs of poor and needy constituents.

## **ARTICLE IV. Bill of Rights**

***[As in Article III in the 1987 Constitution]***

## **ARTICLE V. Bill of Duties and Obligations**

**Editor's Note.** *This is an innovation of the CMFP. The 1987 Constitution does not have an article on duties and obligations of citizens.*

*We, Filipinos, should balance our concern for and undue emphasis on our individual rights and entitlements with our corresponding individual, collective, and communitarian duties and obligations. In this way we could become better and more effective citizens in solidarity with our kapwa Pilipino; we could build a strong and united national community and a peaceful, just and humane society.*

*The 1935 Constitution and the 1987 Constitution did not have a Bill of Duties and Obligations of Citizens. In the following text, Sections 1,2,4 and part of Section 5 are lifted from the 1973 Constitution as amended. The underlined words and Sections 3, 6, 7 and 8 are further amendments by the Federalism Research Project.*

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**Section 1.** Loyalty, obedience, cooperation. It shall be the duty of the citizen to be loyal to the Federal Republic of the Philippines and to honor the Philippine flag, to defend the State and contribute to its development and welfare, to uphold the Constitution and obey the laws, and to cooperate with the duly constituted authorities in the attainment and preservation of a peaceful, just and orderly society.

**Section 2.** Correlative duty. The rights of the individual impose upon him or her the correlative duty to exercise them responsibly and with due regard for the rights of others.



**Section 3.** Human life, dignity, rights. Citizens shall respect the life and dignity of every human person and help uphold human rights whenever these are threatened or violated. The State and the citizens shall prevent and prohibit the killing of humans in any form and for whatever purpose. (Jose V. Abueva)

**Section 4.** Duty to work. It shall be the duty of every citizen to engage in gainful work and to work well to assure himself/herself and his/her family a life worthy of human dignity.

**Section 5.** Civic, political participation. It shall be the duty and obligation of every citizen qualified to vote to register and cast his or her vote at every election, to participate actively in other public and civic affairs, and to contribute to good governance, honesty and integrity in the public service and the vitality and viability of democracy. Citizens shall enhance their civic efficiency and political effectiveness by their involvement in people's organizations, non-governmental organizations, civic and professional associations, community associations, or political parties, as well as in discussions on public issues and in the media.

**Section 6.** Promote equity, social justice. In their own homes, in the workplace, and in their various organizations and institutions, citizens shall cooperate in the promotion of equity and social justice for the good of all.

**Section 7.** Responsibility of youth. The youth shall assume their responsibility in developing their social, economic, intellectual and moral well-being. They shall develop their patriotism and nationalism and their civic and political competence in order to serve the common good and national interest and their own welfare.

**Section 8.** Health, ecology, environment. Citizens shall exercise their right to a balanced and healthful ecology, and contribute to the maintenance of a clean, enjoyable and sustainable environment.

## **ARTICLE VI. Citizenship**

***[As in Article IV in the 1987 Constitution as amended]***

**Section 5.** Dual allegiance, dual citizenship. Dual allegiance of citizens is inimical to the national interest and shall be dealt with by law. However, the *Parlamento* (Parliament) may by law determine the conditions in which dual citizenship may be allowed.

## **ARTICLE VII. Jurisdiction of the *Federasyon* and the *Estados*** **(The Federation and the States)**

***[Proposed by the Citizens' Movement for a Federal Philippines]***

**Editor's Note.** Following the delineation of the constituent States of the Federation in Article II, the distribution of the powers, authority, and functions of the Federation and the constituent States in Article VII is of paramount importance. Other draft constitutions that do not contain the equivalent of Article II and Article VII in this **CMFP Draft Constitution** are not really committed to Federalism. Their proponents prefer the

traditional centralized Unitary System that concentrates governmental power, authority and resources in the National Government.

*In setting up the Federal Republic the revised Constitution divides the powers of government into three types: (1) enumerated powers, (2) reserved powers, and (3) concurrent powers.*

*In a constitutional democracy, the Constitution of the Federal Republic is the supreme law. Under this Constitution the supremacy of Federal laws is ensured when State or local government laws contradict them. Reserved powers are also vested in the Parliament. Residual powers are vested in the Parliament. “The Estados shall support the Federasyon in maintaining the integrity and independence of the Federal Republic and shall comply with and enforce this Constitution and all Federal laws” (Article XIV. Section 1 and 2, below).*

*All of these are intended to ensure the integrity and solidarity of the Federal Republic in case of conflicts in the relations between the Federation and the States. This responds to the fears that Federalism might lead to the weakening of the Federal Government and the dismemberment of the Federal Republic when any State invoking self-determination wants to secede from the Republic.*

*The Constitutional Tribunal shall settle all disputes on constitutionality between the Federal Government and the States and among the States.*



The distribution of enumerated powers and functions between the *Federasyon* (Federation) and *Parlamento* (Parliament) on the one hand, and the *Estados* (States) and *Batasang Estados* (State Assemblies) on the other, their concurrent jurisdictions, as well as the assignment of residual powers, shall be as follows.

**Section 1. Exclusive Jurisdiction of the Federasyon (Federation) and the Parlamento (Parliament).** The *Federasyon* through the *Parlamento* shall have exclusive jurisdiction over the following:

(1) National security, defense, declaration of war; (2) Foreign relations; (3) Currency/ Monetary system; (4) External trade/ Commerce; (5) Citizenship; (6) Civil Rights/ Political Rights/ Human Rights; (7) Immigration, emigration, extradition; inter-State migration, inter-State quarantine; (8) Suffrage; (9) Federal Civil Service; (10) Justice— (a) Supreme Court, (b) Court of Appeals, (c) Constitutional Tribunal; (11) Legal Codes; (12) Inter-state trade and commerce; (13) Postal and telecommunications; (14) Transportation—promotion and regulation of air, sea, land transportation; (15) National socio-economic planning; (16) National finance—(a) taxation, (b) customs, (c) national budget, (d) audit; (17) Regulation of the press and media; (18) Social Security—(a) unemployment, (b) sickness, (c) old age; (19) Protection of intellectual property, property rights, and copyrights; (20) Meteorology and standard; (21) Standards of weights and

measures; (22) Time regulation; (23) Partnership aid to the States; (24) Research and development in agriculture, forestry, fisheries, environment and natural resources, industrial development, and mining; (25) Agrarian reform and ancestral lands; (26) Census, surveys and statistics; (27) Borrowing money on the public credit of the Federation; (28) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State; (29) Defining and punishing piracies and felonies committed on the high seas, and offenses against the Law of Nations; (30) Establishment, management and maintenance of penitentiaries; (31) Social insurance institutions whose sphere of competence extends beyond the territory of one State; (32) Cloning/genetic research and engineering; (33) Offences against laws with respect to any matters in this List.

**Section 2. Primary Jurisdiction of the *Estados* (States) and *Batasang Estados* (State Assemblies).** The *Estados*, through the *Batasang Estados*, shall have primary jurisdiction over the following:

(1) State/Local elections; (2) State Civil Service; (3) State Justice- (a) State Court of Appeals, (b) Regional Trial Courts, (c) Metropolitan Trial Courts, (d) City Circuit Trial Courts, (e) Municipal Circuit Trial Courts, and (f) Sharia Circuit Trial Courts; (4) Establishment and operation of public transportation; (5) Licensure of public utilities; (6) State socio-economic planning; (7) State finance- (a) taxation, (b) customs, (c) budget, (d) audit; (8) Partnership aid to local governments; (9) Agriculture; (10) Forestry; (11) Fisheries; (12) Environment and natural resources; (13) Industrial development; (14) Mining; (15) Waterworks; (16) Administration and enforcement of State laws and programs; (17) Health; (18). Education (basic education, secondary education, and State higher education); (19) Social welfare; (20) Cultural development (21) Sports development; (22) Regional and local language development; (23) (24) Police, public safety, law and order; (25) State and local infrastructure; (26) Entertainment and amusement; (27) Marriage and legal separation; (28) Offences against laws with respect to any matters in this List.

**Section 3. Concurrent Functions and Powers.** The following areas shall be the concurrent jurisdiction of the *Federasyon* and *Parlamento* and of the *Estados* and *Batasang Estados*:

(1) Administration and enforcement of Federal laws and programs; (2) National/ State elections; (3) Health; (4) Education (Federal standard setting for and regulation of higher education; standard setting for and assistance to basic education and secondary education); (5) Social welfare; (6) Cultural development; (7) Sports development; (8) National language development; (9) Public safety/ Law enforcement; (10) Environmental protection; (11) Energy; (12) Tourism; (13) Population management; (14) Labor/trade unions; (15) Science and technology promotion; (16) Common infrastructure- (a) National power grid, (b) Roads, (c) Highways, (d) Airports, (e) Seaports, (f) Railway; (17) Lunacy and mental deficiency, including places for the reception and treatment of lunatics and mental deficient; (18) Price control; (19) Drainage, sewerage, and irrigation; (20) Fire safety measures and fire precautions in the construction and maintenance of buildings; (21) Law relating to weapons and explosives; (22) Prevention of abuse of economic power; (23) Nuclear energy.

**Section 4. Resolution of conflicts and doubts on jurisdiction.** The *Tribunal Konstitusyonal* (Constitutional Tribunal), en banc or in division, depending on the seriousness of the controversy, shall decide on how to resolve conflicts between the *Parlamento* (Parliament) and *Batasang Estados* (State Assemblies). (*From the 1981 Bayanikasan Constitution*).

**Section 5. Supremacy of Federal Laws.** When a law of a *Batasang Estado* (State Assembly) and local government is inconsistent with a law of the *Parlamento*, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid. (*From the Constitution of Australia*).

**Section 6. Legislation of the Parlamento and of the Batasang Estados.** The *Batasang Estados* have the right to legislate insofar as this Constitution does not confer legislative power on the *Parlamento*. The division of competence between the *Parlamento* and the *Batasang Estados* is determined by the provisions of this Constitution concerning exclusive, primary, and concurrent legislative powers. (*Adapted from the Constitution of the Federal Republic of Germany*).

**Section 7. Exclusive legislative power of the Parlamento.** In matters within the exclusive legislative power of the *Parlamento*, the *Batasang Estados* have power to legislate only where and to the extent that they are given such explicit authorization by a Federal statute. (*From the Constitution of the Federal Republic of Germany*).

**Section 8. Residual Powers.** Legislative powers not granted in this Constitution to the *Parlamento* or to the *Batasang Estados* are powers reserved to the *Parlamento*.

## **ARTICLE VIII. Suffrage**

**[As in Article V in the 1987 Constitution]**

## **ARTICLE IX. Political Parties**

**Editor's Note.** *We propose this new Article, conscious that the constitutions of 1935, 1973 and 1987 do not have any article specifically devoted to political parties. The shift from a unitary-presidential system to federal-parliamentary system makes it necessary and more feasible to reform our political parties.*

**Serious limitations of our political parties.** *Our political parties are mostly personal organizations of politicians for waging an electoral campaign and winning elections. They are largely similar in their platforms and usually are not committed to pursue particular policies when they are in power. Their members, by and large, have no loyalty to their party; they freely jump from one party to another according to their personal convenience.*

*In their present condition political parties are not meaningful to the citizens. They are not effective in mobilizing their own leaders and members, much less the citizens, in pursuance of definite policies and principles; nor can the political parties and their leaders be held responsible for their performance and conduct in or out of power. Consequently, most citizens do not take the parties seriously and may be cynical toward them.*

**Structural and functional reform of our political parties is imperative and urgent.**

*We believe that our political parties should be fundamentally transformed if they are to be meaningful and effective, and responsible and accountable institutions of representative democracy and a parliamentary government. For this reason, we propose the structural and functional reform of political parties through constitutional, legal and other practical means.*

*Here we are proposing certain provisions to transform our political parties and encourage and sustain them in their important role in the federal-parliamentary system. In other parts of this Draft Constitution, we propose that on their ballots citizens are able to vote for their candidate for the Parlamento and for their candidate for the Batasang Estado, as well as for the political party of their choice at the Federal level and the State level.*

*Voting for specific political parties will encourage them to develop and compete with each other for the support and loyalty of the voters—on the basis of the party platform or program of government and the party’s organization and performance as the party in power, or as the opposition party.*

*We also propose that additional seats in the Parlamento and the Batasang Estados be apportioned among the competing political parties on the basis of “proportional representation”—or according to their respective share of the total votes cast in the election for all the political parties.*

*By capturing additional seats in the Parlamento, the stronger political party will be better able to become the majority party to form the Government at the Federal level by electing the Prime Minister and constituting the Cabinet. By capturing additional seats in the Batasang Estado at the State level, the stronger political party will be better able to form the Government by electing the State Governor and organizing the Sangguniang Estado or State Cabinet.*



**Section 1. Indispensable role of political parties.** Meaningful, responsible and accountable political parties are indispensable to the effective functioning of representative democracy and a parliamentary government. As political organizations or institutions, they shall enable their members and the party to select candidates for public office, to mobilize support for their election, to shape and influence public opinion and educate the people politically, and to determine the principles, policies and program that shall guide their members as they and the political party seek and exercise governmental power. Party platforms and programs and public morality and ethics are the bases for

holding political parties and their members responsible and accountable for their performance in and out of office.

Accordingly: (1) Every political party shall be accredited by the Federal Commission on Elections which shall ensure that the political party has duly adopted its program and platform of government before every election; (2) Political parties shall observe fair, honest and democratic processes in nominating and selecting their party candidates for public office, (3) They shall ensure the integrity, loyalty, and discipline of their members; and (4) They shall publicly account for the sources and use of their funds and for their assets. (*Sub-section (4) is from the Constitution of the Federal Republic of Germany.*)

**Section 2. Promoting the stability of parliamentary government.**

(1) The *Parlamento* (Parliament) shall by law promote the development of a free and open party system in which the political parties may be able to alternate in power by obtaining a majority of the seats in the *Parlamento* (Parliament) and in the *Batasang Estado* (State Assembly). As an alternative to having a majority political party in the *Parlamento* or the *Batasang Estado*, a leading political party in either institution may form a governing coalition by securing the support of other political parties in electing the *Punong Ministro* (Prime Minister) or the *Gobernador Estado* (State Governor).

(2) The *Parlamento* shall by law provide financial assistance to the political parties on the basis of their share of the votes in the previous election.

**Section 3. Promoting a competitive, effective, accountable, and stable party system.** To strengthen the party system, the *Parlamento* shall enact a Political Party Development Act, a Campaign Finance Reform Act, an Election Management and Reform Code, and a Political Education Act. (*Adapted from the laws and practices of various governments and from “Political Party Alliances, Constituencies, and Mass-based Political Development,” by Segundo F. Romero, Nov. 16, 2001.*)

**ARTICLE X. The *Presidente* (The President)**

**Editor’s Note.** *This is a fundamentally revised version of Article VII. Executive Department, in the 1987 Constitution, proposed by the Federalism Research Project.*

*Unlike under the 1935, 1973 and 1987 Constitutions, the Presidente in this **CMFP Draft Constitution for a Federal Republic of the Philippines** is not the Head of Government nor Chief Executive and Head of State who is directly elected by the electorate nationwide.*

*In sharp contrast, as in the parliamentary systems of India and Singapore, the Presidente is only the Head of State, a largely symbolic and ceremonial President, but still an important government official and national leader.*

The *Punong Ministro* (*Prime Minister*) is the *Head of Government* who is elected by the Parliament. For these reasons, the *Presidente*, like the President in India, Singapore and the Federal Republic of Germany, is indirectly elected by the Electoral Assembly consisting of the Parliament and the State Assemblies.

In the parliamentary systems of the United Kingdom, Canada and Australia, the non-elective Head of State is the British Monarch; in Malaysia it is the Yang di-Pertuan Agong, one of the hereditary sultans of the original Malay States serving in rotating terms of five years.



**Section 1. Head of State.** The *Presidente ng Pilipinas* (President of the Philippines) as the Head of State symbolizes the sovereignty of the people and the unity and solidarity of the nation with its ethnic, linguistic, religious, cultural, social and economic diversities. Upon election by the *Asembly Elektoral* (Electoral Assembly), the *Presidente* shall *ipso facto* cease to be a member of any political party and shall serve fully as *Presidente* of all the people and the whole nation.

**Section 2. Qualifications.** No person may be elected *Presidente* unless he or she is a natural-born citizen of the Philippines, a registered voter, at least forty years of age on the day of election for *Presidente*, and a resident of the Philippines for at least ten years immediately preceding such election. Every nominee for *Presidente* shall be a distinguished and respected leader in his or her profession and career, and shall be duly nominated by an accredited political party.

**Section 3. Election.** The *Presidente* shall be elected through secret ballot without debate by the *Asembly Elektoral* composed of the Members of the *Parlamento* (Parliament) and all the members of *Batasang Estados* (the State Assemblies) voting together as one body. The term of office of the *Presidente* shall begin at noon on the fourth Monday of January following the day of the election and shall end at noon of the same date five years thereafter when the term of his or her successor shall begin. The ballots shall be counted immediately after the voting and the nominee receiving a majority vote of all the members of the *Asembly Elektoral* shall thereupon be immediately proclaimed. In case such majority is not obtained, a run-off election shall be conducted between the two nominees obtaining the highest number of votes. The person obtaining the higher number shall be declared elected. No *Presidente* shall serve for a second term.

**Section 4. Oath or affirmation.** The *Presidente*, on assuming office, shall take the following oath or affirmation:

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

**Section 5. Residence, compensation.** The *Presidente* shall have an official residence and shall receive a compensation fixed by law, the amount of which shall not be increased or decreased during his or her term of office. The *Presidente* shall not receive any other emolument from the Government or any other source. Until the *Parlamento* shall provide

otherwise, the *Presidente* shall receive an annual salary of one million two hundred thousand pesos.

**Section 6. Prohibitions.** The *Presidente* shall not hold any other office, practice any profession, participate directly or indirectly in the management of any business, or be financially interested directly or indirectly in any contract with, or in any franchise or special privilege granted by the Federal Government, any State or local government, any agency or instrumentality of these governments, or any government-owned or controlled corporation.

**Section 7. Appoint the *Punong Ministro*.** The *Presidente* shall appoint the *Punong Ministro* (Prime Minister) within seven days following the latter's election by the *Parlamento* (Parliament).

**Section 8. Messages to the *Parlamento*.** The *Presidente* may address messages to the *Parlamento*.

**Section 9. Receive annual reports.** The *Presidente* shall receive the annual reports of the *Kataas-taasang Hukuman* (Supreme Court) and the *Tribunal Konstitusyonal* (Constitutional Tribunal) on the activities of the Federal Judiciary and the report of the various *Mataas na Hukumang Estado* within thirty days of the opening of the *Parlamento*. The President shall also receive the annual reports of the Federal Constitutional Commissions.

**Section 10. Accredit, appoint.** The *Presidente* shall accredit ambassadors and special envoys and receive ambassadors and diplomatic envoys duly accredited to the Federal Republic of the Philippines. He or she shall appoint all officers and employees in the Office of the President.

**Section 11. Powers and functions.** Upon the advice of the *Punong Ministro*, and not without such advice, the *Presidente* shall also exercise the following powers and functions:

- (1) declare a state of war or national emergency;
- (2) convene the *Parlamento* following the election of its Members;
- (3) dissolve the *Parlamento* when the Government loses a vote of confidence;
- (4) call the *Parlamento* to a special session anytime;
- (5) promulgate all laws, treaties and international agreements;
- (6) appoint the regular members of the Judicial and Bar Council;
- (7) appoint the *Punong Mahistrado* (Chief Justice) and all Members of the *Kataas-taasang Hukuman* (Supreme Court);
- (8) appoint the *Tagapangulo* (Chair) and all Members of the *Tribunal Konstitusyonal* (Constitutional Tribunal);
- (9) appoint the Chairperson and members of Federal Constitutional Commissions;
- (10) appoint the Chief of Staff and the heads of all the armed services; and
- (11) appoint other senior officers of the *Federasyon* as provided in Section 12, Article XI.



**Section 12. Reprieves, commutations, pardons, amnesties.** Upon the advice of the *Punong Ministro*, the *Presidente* may also, except in cases of impeachment, or as otherwise provided in this Constitution, grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment; and grant amnesty.

**Section 13. Immunity from suit.** The *Presidente* shall be immune from suit during his or her tenure. Thereafter, no suit shall lie for official acts done by the President, or by others pursuant to his or her specific orders while in office.

## **ARTICLE XI. *Punong Ministro, Gabinete, and Gobyerno*** **(The Prime Minister, the Cabinet, and the Government)**

**Editor’s Note.** *Following Article X, on the Presidente, this Article and Article XII, on the Parlamento, spell out the structure, powers and functions of the Parliamentary Government that vests combined legislative, executive and administrative powers in the Parliament and the Prime Minister who forms and heads the Cabinet and the Government.*

**Advantages of the proposed Parliamentary System over our traditional Presidential System.** *What are the advantages of the proposed Parliamentary System or Government compared to the Presidential System or Government, our political system since 1946?*

*We believe a dynamic and stable Parliamentary Government will:*

- (1) greatly facilitate the exercise and coordination of legislative and executive powers in the Parliament, in pursuit of desired policies and programs of government;*
- (2) promote the election of a Head of Government who has the leadership and experience in building consensus for developing the unity and strength of a political party, shaping its program of government and policies, and attracting popular support for the political party and its program of government;*
- (3) facilitate the timely change of governmental leadership whenever necessary and thus prevent the resort to extra-constitutional change of the Head of Government which can lead to political instability;*
- (4) promote the development of purposeful and effective political parties;*
- (5) empower the people to choose the candidates and political party they want to govern the country;*
- (6) reduce the high cost of electing the Head of Government as in our Presidential System; and*
- (7) prevent the election of the Head of Government on the basis largely of personal popularity or celebrity status as projected in the media or cinema.*

*The conflict between the President and the Legislature and the gridlock in law-making and policy-making that often delays and weakens the Presidential System should be minimized in the Parliamentary System. In our Presidential System urgent reforms and even the General Appropriations Act or “National Budget” are often obstructed and long delayed.*

*Under the Parliamentary System, the political party or coalition of parties that commands a majority of the seats in the Parliament will elect the Prime Minister who selects the Cabinet members and forms the Government. The Prime Minister with the help of the Cabinet will exercise both legislative and executive powers and functions and will be responsible directly to the Parliament and indirectly to the people.*

*The relative ease in changing the Head of Government in the Parliament through a vote of no confidence, unlike the extreme difficulty of removing the President by impeachment in the Presidential System, should also make it unnecessary for the people to resort to the extraordinary if not extra-constitutional means of “people power” that attracts political and military adventurism and leads to political instability. This happened after EDSA 1 and EDSA 2.*

*The Parliamentary System will also reduce the high and increasing cost of electing a President nationwide to become the Head of Government and Head of State in our Presidential System. Unlike the present President, the Prime Minister will be first elected in a parliamentary district, like the present congressional district, not nationwide. The majority party or coalition in the Parliament then elects its leader to become the Prime Minister.*

*Under our Presidential System a serious presidential candidate has to raise up to P2 billion or more for a successful presidential campaign. This tends to compromise the incumbent President who becomes beholden to those who contributed heavily to the success of his or her campaign.*

*The Parliamentary System will also reduce the temptation to amend the Constitution to extend the term of the President. Recall that President Manuel L. Quezon had the 1935 Constitution amended to allow him to seek reelection. President Marcos imposed martial law and manipulated the 1971 Constitutional Convention to enable him to rule indefinitely. After over 13 years of authoritarian rule, he was removed from office by EDSA 1. President Fidel V. Ramos tried to amend the 1987 Constitution to allow him to run again in 1998 but failed because the people opposed the proposed amendment.*

*Likewise, the shift to a Parliamentary System will prevent the election of a President on the basis mainly of personal popularity rather than of competence, experience and support by a representative, responsible, program-oriented political party that the people can hold accountable with the President for their conduct and performance in office.*



**Section 1. Role of the Punong Ministro.** The Punong Ministro is the Head of Government of the Federal Republic of the Philippines. The Punong Ministro shall form the *Gobyerno* (the Government) by appointing the *Ministros* (Ministers), with or without portfolio, and constituting the *Gabinete* (Cabinet). At his or her sole discretion, the Punong Ministro may remove any member of the *Gabinete*. At least three-fourths of the *Ministros* or

Members of the *Gabinete* shall come from among members of the *Parlamento*. (*Adapted from the AGORA Draft*)

**Section 2. Election of Punong Ministro.** The *Punong Ministro* shall be elected by the *Parlamento* by secret ballot and a majority vote of all its members and appointed by the *Presidente*. By a system of elimination and subsequent secret voting, the one receiving the highest number of votes, with a majority, shall be elected *Punong Ministro* and appointed within three days by the *Presidente*. (*From Salvador Araneta's Bayanikasan Constitution with amendments*)

**Section 3. Election of Speaker.** The *Parlamento* shall elect a Speaker from among its Members who shall preside over its sessions and shall continue in office at the pleasure of the *Parlamento*.

**Section 4. Program of Government.** The *Punong Ministro* and the *Gabinete* shall be responsible to the *Parlamento* for the Program of Government. At the beginning of each regular session of the *Parlamento*, and from time to time thereafter, the *Punong Ministro* shall present the Program of Government and recommend for the consideration of the *Parlamento* such measures as he or she may deem necessary and proper. (*From the Agora Draft and the National Security Council Draft*)

**Section 5. Term of office.** The term of office of the *Punong Ministro* shall commence from the date of his or her appointment and shall end on the date of appointment of his or her successor. (*From the AGORA Draft*)

**Section 6. Bise Punong Ministro, Permanent Secretaries.**

1) The *Punong Ministro* may appoint a *Bise Punong Ministro* (Deputy Prime Minister) from among the Members of the *Parlamento*.

2) The *Punong Ministro* shall appoint a Permanent Secretary for each Ministry in the Federal Civil Service. The Permanent Secretary shall be appointed under the Federal Career Executive Service rules and shall enjoy tenure of office unless removed for cause. (*Adapted from the AGORA Draft*)

**Section 7. The Speaker.** The *Punong Ministro* shall appoint a Speaker from among the Members of the *Parlamento* who shall preside over the sessions of the *Parlamento*.

**Section 8. Oath or affirmation.** The *Punong Ministro*, *Diputado Punong Ministro*, and other *Ministros* or Members of the *Gabinete*, on assuming office, shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as (name of position) of the Federal Republic of the Philippines, preserve and defend the Constitution, execute the law, do justice to every citizen and consecrate myself to the service of the Nation. So help me God." (*In case of affirmation, the last sentence will be omitted -- adapted from the AGORA Draft*)

**Section 9. Official residence, salary.** The *Punong Ministro* shall have an official residence and a salary of one million two hundred thousand pesos per annum, unless otherwise changed by law.

**Section 10. Salaries of other ministros.** The salary of the *Diputado Punong Ministro* and the *Ministros* shall be one million eighty thousand pesos each per annum unless otherwise changed by law. However, the salaries of the *Punong Ministro*, *Diputado Punong Ministro*, the *Ministros* shall not be increased or decreased during their tenure of office. The salaries and emoluments of Permanent Secretaries shall be governed by the Federal Civil Service Law. Unless otherwise provided by law, the *Punong Ministro* (Prime Minister) shall receive the same amount of salary as that of the President. *(Adapted from the AGORA Draft)*

**Section 11. Prohibitions.** The *Punong Ministro*, *Diputado Punong Ministro*, and other *Ministros* or Members of the *Gabinete* shall not, during their tenure, hold any private office, practice any profession, participate directly or indirectly in the management of any business, or be financially interested directly or indirectly in any contract with, or in any franchise or special privilege granted by, the government or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation. *(From the AGORA Draft)*

**Section 12. Resignation.** The *Punong Ministro* may resign from his or her position in a written notice to the *Presidente*. The *Diputado Punong Ministro* or any member of the *Gabinete* may tender his or her resignation in a written notice to the *Punong Ministro* without vacating his or her seat in the *Parlamento*. *(From the AGORA Draft)*

**Section 13. Control and supervision.** The *Punong Ministro* shall have control and supervision of all Federal ministries, bureaus, agencies, and offices, and shall ensure that the laws are faithfully executed and programs implemented. *(Adapted from the AGORA Draft)*

**Section 14. Appointment of Federal officers.** The *Punong Ministro* shall recommend to the *Presidente* the appointment of the justices of all Federal courts below the Supreme Court, the heads of Federal bureaus, agencies and offices, the officers of the armed forces of the Philippines from the rank of brigadier general or commodore, and all other Federal officers whose appointments are not otherwise provided for, and those whom the *Punong Ministro* may be authorized by law to appoint. The *Punong Ministro* shall have the power to make appointments during the recess of the *Parlamento*, whether voluntary or compulsory, but such appointments shall be effective only until concurrence by the Commission on Appointments or until the next adjournment of the *Parlamento*. The *Parlamento* may by law vest in the *Punong Ministro*, Members of the *Gabinete*, and Federal courts, commissions, boards, and heads of agencies the power to appoint lower officers within their respective offices. *(From the AGORA Draft)*

**Section 15. Commander-in-Chief, suspension of writ of habeas corpus, martial law.** The *Punong Ministro* shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he or she may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion. In case of invasion or rebellion, when the public safety requires it, the *Punong Ministro* may, for a period not exceeding sixty days, suspend the privilege of the writ of habeas corpus or place the Philippines or any

part thereof under martial law. Within forty-eight hours from the proclamation of martial law or the suspension of the privilege of the writ of habeas corpus, the *Punong Ministro* shall submit a report in person or in writing to the *Parlamento*. The *Parlamento*, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the *Punong Ministro*. Upon the initiative of the *Punong Ministro*, the *Parlamento* may, in the same manner, extend such proclamation or suspension for a period to be determined by the *Parlamento*, if the invasion or rebellion shall persist and public safety requires it.

The *Parlamento*, if not in session, shall, within twenty-four hours following such proclamation or suspension, convene in accordance with its rules without need of a call. The Supreme Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof, and must release its decision thereon within thirty days from its filing.

A state of martial law does not suspend the operation of the Constitution, nor supplant the functioning of the civil courts, the *Batasang Estados* (State Assemblies) or local legislative assemblies, nor authorize the conferment of jurisdiction on military courts and agencies over where civil courts are able to function, nor automatically suspend the privilege of the writ. The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or offenses inherent in or directly connected with invasion. During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released.

**Section 16.** Reprieves, commutations, pardons, remit fines and forfeitures, amnesty. Except in cases of impeachment, or as otherwise provided in this Constitution, the *Punong Ministro* may advise the *Presidente* to grant reprieves, commutations, and pardons, and remit fines and forfeitures, after conviction by final judgment. With the concurrence of a majority of all the Members of the *Parlamento*, the *Punong Ministro* shall advise the *Presidente* to grant amnesty.

**Section 17.** Foreign loans. The *Punong Ministro* may contract or guarantee foreign loans on behalf of the Federal Republic with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the *Parlamento* a complete report of its decision on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and containing other matters as may be provided by law.

## **ARTICLE XII. The Parlamento (Parliament)**

**Editor's Note.** Article VII in the 1987 Constitution has been rewritten because of the proposed shift in the form of government from a Presidential System or Government to a Parliamentary System or Government. The documentary sources of some specific provisions are indicated.

*The Speaker and most members of the House of Representatives are vigorously advocating the change of our Presidential System into a Parliamentary System with a unicameral Parliament. They argue that a unicameral Parliament will be more efficient and expeditious in the performance of its functions compared to a bicameral Parliament. They cite the gridlock, obstruction, and delays in our bicameral Congress as their reason for changing to a unicameral legislature.*

*In effect the proponents in the House of Representatives are proposing the abolition of the Senate or second chamber in the Proposed Parliament. Such abolition is one of the objections of some Senators to the proposed Parliamentary System or Government.*

*However, this **CMFP Draft Constitution** strongly advocates a Federal System where the Parliament shall be bicameral like in all the federal systems in the world.*

*The Parliament shall have a first chamber known as the **Balay Sambayanan** (House of the People) and a second chamber called the **Balay Estados** (House of the States).*

*Through the second chamber or **Balay Estados** in the Parliament, the States shall represent their interests and welfare and their powers and authority in their relations with the Federation or Federal Government and its first chamber: the **Balay Sambayanan** (House of the People).*

*Accordingly, this **CMFP Draft Constitution** provides for Balay Estados composed of two or three Senadores (Senators) per State, depending on the population of the State, to be chosen by the Members of every **Batasang Estado** or State Assembly from among their own members. **Batasang Estados** with less than thirty members shall have two Senadores, those with thirty or more shall have three Senadores.*



**Section 1.** Powers and Structure of the Parlamento (Parliament). The legislative and executive powers of the *Federasyon* or Federation shall be vested in the *Parlamento ng Pilipinas* (Parliament of the Philippines) except to the limited extent that legislative power is reserved to the people by the provisions on initiative and referenda. The *Parlamento* shall consist of the first chamber known as the *Balay Sambayanan* and the second chamber called the **Balay Estados** .

**Section 2.** Composition of the Balay Sambayanan (House of the People). (1) The *Balay Sambayanan* shall be composed of not more than three hundred and fifty *Parlamentaryos* (Members of Parliament), unless otherwise fixed by law. Most of them shall be elected from the parliamentary districts, provided that sixty more Members shall be elected nationwide by the party list of accredited political parties, based on the principle of proportional representation of the political parties according to the votes each of them obtained in the election. The *Parlamentaryos* shall represent their respective parliamentary districts and the whole nation.

(2) The parliamentary districts shall be apportioned among the *Estados* (States) and their provinces and cities, and Metro Manila, in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio.

(3) Each parliamentary district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least three [two] hundred fifty thousand, [or each province,] shall have at least one representative. Within three years following the return of every census, the *Parlamento* shall make a reapportionment of parliamentary districts based on the standards provided in this section.

(4) All political parties shall be duly registered with the Federal Commission on Elections.

(5) Voters shall cast one vote for their candidate in the parliamentary district and another vote for the political party of their choice. The names of the political party candidates shall be indicated in the party lists provided by the Federal Commission on Elections, which shall also indicate a brief official statement of the principles and proposed policies and program of government of the different political parties.

**Section 3.** Composition of the *Balay Estados* (the Senate). The *Balay Estados* shall be composed of not more than two or three *Senadores* or Senators per State, depending on the relative voting population of each State. They shall be elected by the various *Batasang Estados* or State Assemblies from among their members and shall represent their respective States and the whole nation.

**Section 4.** Qualifications of *Parlamentaryos* and *Senadores*. No person shall be a *Parlamentaryo* or *Senador* unless he or she is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, a registered voter in the district in which he or she shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

**Section 5.** Term of office. The term of office of the *Parlamentaryos* and *Senadores* shall be five years and shall commence, unless otherwise provided by law, at noon on the second Monday of January next following their election in the second Monday of November of the previous year. The term of office of the *Parlamentaryos* and *Senadores* may be shortened in case of the dissolution of the *Parlamento*.

**Section 6.** Duration of the *Parlamento*. The *Parlamento*, unless sooner dissolved, shall continue for five years from the date of its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the *Parlamento*: provided that the said period may, while a proclamation of Emergency or of a State of War is in operation, be extended by the *Parlamento* by resolution for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate. (*Adapted from the Constitution of India*)

**Section 7. Vote of confidence; dissolution of the *Parlamento*.** (1) The *Punong Ministro* may request a vote of confidence from the *Balay Sambayanan* when a bill is put to a vote. The bill is considered adopted unless a constructive vote of no confidence is passed in the second condition laid down by Section 7 of this Article.

(2) The *Punong Ministro* may request a vote of confidence from the *Balay Sambayanan* on government programs or a general declaration of policy. Forty-eight hours must elapse between the motion of the *Punong Ministro* for a vote of confidence and the vote thereon. If the vote of confidence is not carried by the majority of the *Balay Sambayanan*, the President shall, upon the advice of the *Punong Ministro*, dissolve the *Parlamento* within twenty-one days. (*From Dr. Alfredo C. Robles, Jr., citing Article 43, paragraph 3 of the French Constitution*)

(3) The right of the dissolution shall lapse as soon as the *Balay Sambayanan* elects another *Punong Ministro* by a majority vote of its members. (*Adapted from the Constitution of the Federal Republic of Germany*)

**Section 8. Constructive vote of no confidence.** (1) The *Balay Sambayanan* may express its lack of confidence in the *Punong Ministro* only by electing a successor with the majority of its members and requesting the *Presidente* to dismiss the incumbent. The *Presidente* must comply with the request and appoint the member elected. (*Adapted from the Constitution of the Federal Republic of Germany*)

(2) Forty-eight hours must elapse between a motion for a constructive vote of no confidence and the vote on the motion. The *Balay Sambayanan* may vote on such a motion only once in the same session, provided that the *Punong Ministro* shall not be changed during his first year in office. (*From Dr. Alfredo C. Robles, Jr., citing Article 49, paragraph 2 of the French Constitution*)

**Section 9. Dissolution of the *Parlamento* on the initiative of the *Punong Ministro*.** The *Punong Ministro* may request the dissolution of the *Parlamento* by a majority vote of all the members of the *Balay Sambayanan*. Forty-eight hours must elapse between the motion of the *Punong Ministro* for the dissolution and the vote thereon. If the motion is carried, the *Presidente* shall, upon the advice of the *Punong Ministro*, dissolve the *Parlamento* within twenty-one days following the advice and at the same time call for an election of a new *Parlamento* that shall be held not later than sixty days from the dissolution of the existing *Parlamento*.

**Section 10. Election of members of the *Balay Sambayanan* (House of the People).** Unless otherwise provided by law, or brought about by the earlier dissolution of the *Parlamento*, the regular election of the *Parlamentaryos* shall be held on the second Monday of November. In case of vacancy in the *Balay Sambayanan*, a special election may be called to fill such vacancy in the manner prescribed by law, but the member of the *Balay Sambayanan* thus elected shall serve only for the unexpired term.

**Section 11. Election of members of the *Balay Estados*.** Unless otherwise provided by law, or brought about by the earlier dissolution of the *Parlamento*, the regular election of



the *Senadores* shall be held within the month of November following the election of the members of the *Batasang Estados* (State Assemblies). In case of vacancy in the *Balay Estados*, a special election may be called to fill such vacancy in the manner prescribed by law, but the member of the *Balay Estados* thus elected shall serve only for the unexpired term.

**Section 12.** [10] Salaries. The salaries of members of the *Balay Sambayanan* and the *Balay Estados* shall be nine hundred sixty thousand pesos unless otherwise determined by law. No increase in said compensation shall take effect until after the expiration of the full term of all the members of the *Parlamento* approving such increase.

**Section 13.** [11] Immunities. A *Parlamentaryo* or *Senador* shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the *Parlamento* is in session. No member shall be questioned nor be held liable in any other place for any speech or debate in the *Parlamento* or in any committee thereof.

**Section 14.** [12] Full disclosure and divestment. All members of the *Balay Sambayanan* or the *Balay Estados* shall, upon assumption of office, make a full disclosure of their financial and business interests. They shall notify the chamber concerned of a potential conflict of interest that may arise from the filing of a proposed legislation of which they are authors. They shall divest themselves of all business interests and place such interests in a blind trust during the duration of their tenure in the *Parlamento*.

**Section 15.** [13] No holding of any other public office. No *Parlamentaryo* or *Senador* may hold any other office or employment in the government service, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his or her term without forfeiting his or her seat. Neither shall he or she be appointed to any office which may have been created or the emoluments thereof increased during the term for which he or she was elected.

**Section 16.** [14] Prohibitions on actions in relation to government. No *Parlamentaryo* or *Senador* may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he or she, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, or its subsidiary, during his or her term of office. No *Parlamentaryo* or *Senador* shall intervene in any matter before any office of the government for his or her pecuniary benefit or where he or she may be called upon to act on account of his or her office.

**Section 17.** Prohibitions on private practice of profession. *Parlamentaryos* and *Senadores* shall not, during their tenure, hold any private office, practice any profession, including work in the media or cinema, or participate directly or indirectly in the management of any business enterprise.

**Section 18.** Conviction of a crime. Any *Parlamentaryo* or *Senador* who is convicted of a crime in a regional trial court involving a penalty of \_\_\_\_\_ shall immediately forfeit his/her seat in the *Parlamento*. The vacancy shall be promptly filled by the political party of the disqualified *Parlamentaryo* in accordance with its party list in the previous parliamentary election.

**Section 19.** [15] Regular and special sessions. The *Parlamento* shall convene once every year on the second Monday of January for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays, Sundays, and legal holidays. The *Presidente*, upon the advice of the *Punong Ministro*, may call a special session at any time. The *Parlamento* shall hold at least 120 days of session each year.

**Section 20** [16] Quorum, rules, Journal. (1) A majority of the members of the *Parlamento* in each chamber shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner, and under such penalties, as the *Parlamento* may provide.

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

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

(4) During its sessions the *Parlamento* shall not adjourn for more than three days, nor to any other place than that in which it shall be sitting.

**Section 21.** [17] Electoral tribunal. The *Parlamento* shall have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of its members in the *Balay Sambayanan*. The Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the *Balay Sambayanan* or the *Balay Estados* who shall be chosen on the basis of proportional representation of the political parties represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

**Section 22.** [19] Organizing the Electoral Tribunal. The Electoral Tribunal shall be constituted within twenty days after the *Parlamento* shall have been organized with the election of the *Punong Ministro*.

**Section 23.** [20] Records, books of accounts. The records and books of accounts of each chamber of the *Parlamento* shall be preserved and be open to the public in accordance with law, and such books shall be audited by the Commission on Audit which shall publish annually an itemized list of amounts paid to and expenses incurred for each member.

**Section 24.** [21] Inquiries in aid of legislation. The *Parlamento* or any of its committees may conduct inquiries in aid of legislation in accordance with its duly published rules of

procedure. The dignity and rights of persons appearing in or affected by such inquiries shall be respected.

**Section 25.** [22] Question Hour. The *Ministros* or heads of the various ministries in the *Balay Sambayanan* shall answer questions on any matter pertaining to their ministries during the period designated for such purpose. Written questions may be submitted to the *Punong Ministro* and to the Speaker at least three days before the scheduled period. Interpellations shall not be limited to written questions, but may cover matters related thereto. When the security of the Federal Republic or the public interest so requires and the *Punong Ministro* so states in writing, the deliberation may be conducted in executive session.

**Section 26.** [23] Declaration of a state of war. (1) The *Parlamento*, by a vote of two-thirds of its members, each chamber voting separately, shall have the sole power to determine the existence of a state of war.

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

**Section 27.** [25] Budget, general appropriations act. (1) The *Parlamento* may not increase the appropriations recommended by the *Punong Ministro* for the operation of the Federal Government as specified in the budget. The form, content, and manner of preparation of the budget shall be prescribed by law.

(2) No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.

(3) The procedure in approving appropriations for the *Parlamento* shall strictly follow the procedure for approving appropriations for other ministries and agencies.

(4) A special appropriations bill shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposal therein.

(5) No law shall be passed authorizing any transfer of appropriations; however, the *Presidente*, the *Punong Ministro*, the *Punong Mahistrado* of the Supreme Court, the *Punong Mahistrado ng Tribunal Konstitusyon* and the heads of Federal Constitutional Commissions may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

(6) Discretionary funds appropriated for particular officials shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law.

(7) If, by the end of any fiscal year, the *Parlamento* shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be deemed reenacted and shall remain in force and effect until the general appropriations bill is passed by the *Parlamento*.

**Section 28.** [26] One subject, three hearings. (1) Every bill passed by the *Parlamento* shall embrace only one subject which shall be expressed in the title thereof.

(2) No bill passed 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 *Punong Ministro* 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 29.** [27] Approval and promulgation of a bill. (1) Every bill passed by the *Parlamento*, each chamber deliberating and voting separately, shall, before it becomes a law, be presented to the *Punong Ministro*. If the *Punong Ministro* approves the same he or she shall forward it for the *Presidente's* promulgation.

**Section 30.** Approval of treaty or international agreement. No treaty or international agreement shall be valid and effective unless concurred in by a majority of all the members of the *Parlamento*, each chamber voting separately, signed by the *Punong Ministro*, and then promulgated by the *Presidente*.

**Section 31.** [28] Taxation. (1) The rule of taxation shall be uniform and equitable. The *Parlamento* shall evolve a progressive system of taxation.

(2) The *Parlamento* may, by law, authorize the *Punong Ministro* to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Federal Government.

(3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.

(4) No law granting any tax exemption shall be passed without the concurrence of a majority of all the members of the *Parlamento*, each chamber voting separately.

**Section 32.** [29] Public money, property. (1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.

(2) No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, other

religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.

(3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Federal Government.

**Section 33.** [30] Appellate jurisdiction of the *Kataas-taasang Hukuman*. No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence.

**Section 34.** [31] No royalty or nobility. No law granting a title of royalty or nobility shall be enacted.

**Section 35.** [32] Initiative and referendum in the *Estados*. The *Parlamento* shall, as early as possible, provide for a system of initiative and referendum in the *Estados*, and the exceptions therefrom, whereby the people in the concerned areas can directly propose and enact laws or approve or reject any act or law or part thereof passed by the *Batasang Estado* or local legislative body after the registration of a petition thereof signed by at least ten per centum of the total number of registered voters, of which every legislative district must be represented by at least three per centum of the registered voters thereof.

**Section 36.** Synchronized local elections. The *Parlamento* shall by law provide for synchronized elections of officials in the local governments.

### **ARTICLE XIII. The *Estados* (States)**

**Editor’s Note.** *Federalism is based on “dual sovereignty” of the Federation and the States. Each of the Estados (States) of the Federal Republic is not merely a new or additional level of government between the traditional political subdivisions of the Philippines—the provinces, cities, municipalities, and barangays on the one hand—and the National Government on the other, as in the present Unitary System.*

*In the Federal Republic every Estado is an autonomous regional component of the Federal Republic. Most but not all of the Estados are larger geographic, political, ethno-linguistic and cultural regions than the existing administrative regions of the National Government. Metro Manila and the ARMM are proposed to be Estados. Moreover, the Estados have their own unicameral, parliamentary form of government.*

*This is why, in the previous years, it was very important and necessary to prepare for federalization through progressive devolution of powers and functions of the National Government to the local governments under the 1987 Constitution and the Local Government Code of 1991, and the steady decentralization of National Government administration to its regional and local offices.*



**Section 1. The *Estados* (States).** The *Estados* are autonomous and equal political regions of the Federal Republic of the Philippines. They shall exercise their powers and functions as defined in Article VII, Section 1 and 2. The *Estados* shall support the *Federasyon* in maintaining the integrity and independence of the Federal Republic and shall comply with and enforce this Constitution and all Federal laws.

**Section 2. Constituent local governments.** The political subdivisions of every *Estado* are its constituent local governments: all the cities, municipalities, and barangays located within the boundaries of the *Estado*. The provinces within the boundaries of the *Estados* are administrative subdivisions thereof.

**Section 3. State constitution, name, capital, flag, anthem, seal, and laws.** Each *Estado* shall frame its own constitution, adopt its name, choose its capital, flag, anthem, and seal. Each *Estado* shall faithfully enforce its laws, policies and rules in accordance with its own constitution and this Constitution, and support and cooperate with other States for their mutual welfare and progress. (*From the Federalism Research Project*)

**Section 4. State boundaries.** The *Estados* have the power to adjust their respective boundaries among themselves, by mutual agreement of the State Assemblies concerned and such agreement shall take effect upon the ratification of the voters in the affected States. (*Adapted from the Constitution of United Mexican States*)

**Section 5. Limit on expenditures for salaries and wages.** Local governments that spend the equivalent of forty percent or more of their locally generated revenues on the salaries and wages of their employees and workers for five consecutive years shall be consolidated with the larger contiguous local government.

**Section 6. Limitations on the *Estados*.** The *Estados* may not in any case:

- (1) Prohibit or levy duty upon, directly or indirectly, the entrance into or exit from their territory of any domestic or foreign goods;
- (2) Tax the circulation of domestic or foreign goods by imposts or duties, the exemption of which is made by local customhouses, requiring inspection or registration of packages or documentation to accompany the goods;
- (3) Enact or maintain in force fiscal laws or provisions that relate to differences in duties or requirements by reason of the origin of domestic or foreign goods, whether this difference is established because of similar production in the locality or because, among such similar production there is a different place of origin;
- (4) Issue bonds of public debt payable in foreign currency or outside the national territory; contract loans directly or indirectly with the Government of other nations, or contract obligations in favor of foreign companies or individuals, when the bonds or

securities are payable to bearer or are transmissible by endorsement. *Estados* may not negotiate loans except for the construction of works intended to produce directly an increase in their revenues;

(5) Establish ship tonnage dues or any other port charges, or levy imposts or taxes on imports or exports;

(6) Have at any time permanent troops or ships of war; and

(7) Make war between and among themselves or on any foreign power, except in cases of invasion and of danger so imminent that it does not admit of delay. (*Adapted from the Constitution of United Mexican States*)

**Section 7. Principles to guide the *Estados*.** Each *Estado* shall respect the public acts, registries, and judicial proceedings of all the others. The *Parlamento*, through general laws, shall prescribe the manner of making such acts, registries, and proceedings, and their effect, by subjecting them to the following principles:

(1) The laws of an *Estado* shall have effect only within its own boundaries and consequently are not binding outside of that *Estado*;

(2) Real and personal property shall be subject to the laws of the place in which they are located;

(3) Judgments pronounced by the courts of one *Estado* on real rights or real property located in another *Estado* shall have executory effect in the latter only if its own laws so provide; judgments on personal rights shall be executed in another *Estado* only when the defendant has expressly or by reason of domicile submitted to the court that pronounced it and provided he or she has been personally cited to appear at the judicial hearing;

(4) Acts of a civil nature done in accordance with the laws of one *Estado* shall have validity in the others;

(5) Professional degrees issued by the authorities of one *Estado*, subject to its laws, shall be respected in the others. (*Adapted from the Constitution of United Mexican States*)

**ARTICLE XIV. Gobernador Estado, Batasang Estado, Sangguniang Estado, and Gobyerno Estado (The State Governor, the State Assembly, the State Council, and the State Government)**

**Editor's Note.** *In the State parliamentary system, the Gobernador Estado (State Governor) is the Chief Executive of the Estado, at the same time that he or she is the Head of the unicameral Batasang Estado (State Assembly). As such the Gobernador Estado is the Head of the Gobyerno Estado (the State Government).*

*The Gobernador Estado appoints the Bise Gobernador Estado (Vice State Governor) and the Sekretaryos Estado (State Secretaries), who with the Gobernador Estado, form the Sangguniang Estado (State Council or Cabinet) and the Gobyerno Estado (State Government). The Sekretaryos Estado head the various Departments or major agencies of the State civil service.*

*Each Department or major agency of the Estado shall be under a Permanent Director General who is a State career civil service officer.*



**Section 1.** The Gobernador Estado (State Governor). As the Head of Government of the Estado, the *Gobernador Estado* shall form the *Gobyerno Estado* (State Government) by appointing the *Sekretaryos Estado* (State Secretaries), with or without portfolio, and constituting the *Sangguniang Estado* (State Council or Cabinet). At his or her sole discretion, the *Gobernador Estado* may remove any member of the *Sangguniang Estado*. At least three fourths of the *Sekretaryos Estado* shall come from among the Members of the *Batasang Estado* (State Assembly). Other *Sekretaryos Estado* may be chosen from among outstanding leaders who are not members of the *Batasang Estado*. (From the *Federalism Research Project*)

**Section 2.** Election of the Gobernador Estado. The *Gobernador Estado* shall be elected by the *Batasang Estado* by secret ballot and a majority vote of all the *Diputados* or members of the *Batasang Estado*. Each political party represented in the *Batasang Estado* with not less than ten percent of its total Members shall nominate one candidate for *Gobernador Estado*. By a system of elimination and subsequent secret voting, the one receiving the highest number of votes, with a majority, shall be elected *Gobernador Estado* and thereafter proclaimed within seven days by the *Presidente*. (From the *Federalism Research Project*)

**Section 3.** Program of the Gobyerno Estado. The *Gobernador Estado* and the *Sangguniang Estado* shall be responsible to the *Batasang Estado* for the Program of the *Gobyerno Estado* (State Government). At the beginning of each regular session of the *Batasang Estado*, and from time to time thereafter, the *Gobernador Estado* shall present the Program of the *Gobyerno Estado* and recommend for the consideration of the *Batasang Estado* such measures as he or she may deem necessary and proper. (From the *Federalism Research Project*)

**Section 4.** Term of office. The term of office of the *Gobernador Estado* shall commence from the date of his or her proclamation and shall end on the date of proclamation of his or her successor. (From the *Federalism Research Project*)

**Section 5.** The Speaker. The *Gobernador Estado* shall appoint a Speaker from among the Members of the *Batasang Estado*. The Speaker shall preside over the sessions of the *Batasang Estado* and shall continue in office at the pleasure of the *Batasang Estado*.



**Section 6.** The *Bise Gobernador Estado* and the Permanent Directors General. 1) The *Gobernador Estado* shall appoint a *Bise Gobernador Estado* (State Vice Governor) from among the *Diputados* or Members of the *Batasang Estado*. (2) The *Gobernador Estado* shall appoint a Permanent Director General for each Department of the State civil service. The Permanent Director General shall be appointed under the State career executive service rules and shall enjoy tenure of office unless removed for cause. (*From the Federalism Research Project*)

**Section 7.** Oath or affirmation. The *Gobernador Estado*, *Bise Gobernador Estado* and other members of the *Sangguniang Estado*, on assuming office, shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as (name of position) of the State of \_\_\_\_\_, preserve and defend the Federal Constitution and the State Constitution, execute the laws, do justice to every citizen and consecrate myself to the service of the State and the Nation. So help me God." (*In case of affirmation, the last sentence will be omitted -- from the Federalism Research Project and the AGORA Draft Constitution*)

**Section 8.** Official residence and salary of the *Gobernador Estado*. The *Gobernador Estado* shall have an official residence and a salary of \_\_\_\_\_ pesos per annum, unless otherwise changed by law. (*From the Federalism Research Project*)

**Section 9.** Salaries of the *Bise Gobernador Estado* and the *Sekretaryos Estado*. The salary of the *Bise Gobernador Estado* and the *Sekretaryos Estado* shall be \_\_\_\_\_ pesos each per annum unless otherwise changed by law. However, the salaries of the *Gobernador Estado*, *Bise Gobernador Estado*, and the *Sekretaryos Estado* shall not be increased or decreased during their tenure of office. The salaries and emoluments of Permanent Directors General and other officers of the State civil service shall be governed by the State Civil Service Law. (*From the Federalism Research Project and the AGORA Draft Constitution*)

**Section 10.** Full disclosure and divestment. All *Diputados* or Members of the *Batasang Estados* shall, upon assumption of office, make a full disclosure of their financial and business interests. They shall notify the *Batasang Estado* of a potential conflict of interest that may arise from the filing of a proposed legislation of which they are authors. They shall divest themselves of all business interests and place such interests in a blind trust during the duration of their tenure in the *Batasang Estado*.

**Section 11.** [13] No holding of any other public office. No *Diputado* may hold any other office or employment in the government service, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his or her term without forfeiting his or her seat. Neither shall he or she be appointed to any office which may have been created or the emoluments thereof increased during the term for which he or she was elected.

**Section 12.** [14] Prohibitions on actions in relation to government. No *Diputado* may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he or she, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the government, or any subdivision, agency, or instrumentality

thereof, including any government-owned or controlled corporation, or its subsidiary, during his or her term of office. No *Diputado* shall intervene in any matter before any office of the government for his or her pecuniary benefit or where he or she may be called upon to act on account of his or her office.

**Section 13. Prohibitions on private practice of profession.** *Diputados* shall not, during their tenure, hold any private office, practice any profession, including work in the media or cinema, or participate directly or indirectly in the management of any business enterprise.

**Section 14. Conviction of a Crime.** Any *Diputado* who is convicted of a crime in a regional trial court involving a penalty of \_\_\_\_\_ shall immediately forfeit his/her seat in the *Batasang Estado*. The vacancy shall be promptly filled by the political party of the disqualified *Diputado* in accordance with its party list in the previous parliamentary election.

**Section 15. Resignations.** The *Gobernador Estado* may resign from his or her position in a written notice to the *Presidente*. The *Bise Gobernador Estado*, the *Sekretaryos* or any Member of the *Sangguniang Estado* may tender their resignation in a written notice to the *Gobernador Estado* without vacating their seat in the *Batasang Estado*. (From the *Federalism Research Project and the AGORA Draft Constitution*)

**Section 16. Control and supervision.** The *Gobernador Estado* shall have control and supervision of all departments, bureaus, agencies, and offices of the *Estado* and shall ensure that the laws are faithfully executed and government programs implemented. (Adapted from the *Federalism Research Project and the AGORA Draft Constitution*)

**Section 17. Appointments of the Gobernador Estado.** The *Gobernador Estado* shall appoint the judges of all State courts, the heads of State bureaus, agencies and offices, the officers of the police and all other State officers whose appointments are not otherwise provided for by law, and those whom the *Gobernador Estado* may be authorized by law to appoint; provided that the *Gobernador Estado* shall appoint the State judges from among the names recommended by the Judicial and Bar Council as in the case of appointments to the Judiciary made by the *Presidente*. The *Gobernador Estado* shall have the power to make appointments during the recess of the *Batasang Estado*, whether voluntary or compulsory, but such appointments shall be effective only until the next adjournment of the *Batasang Estado*. The *Batasang Estado* may by law vest in the *Gobernador Estado*, members of the *Sangguniang Estado*, and State courts, commissions, boards, and heads of agencies the power to appoint lower officers within their respective offices. (From the *Federalism Research Project and the AGORA Draft Constitution*)

## **ARTICLE XV. The *Batasang Estado* (The State Assembly)**

**Editor's Note.** *In the parliamentary system of the Estados (States), the unicameral Batasang Estado exercises both legislative and executive powers. The existence and duration of the Gobyerno Estado (State Government), headed by the Gobernador Estado with the Sangguniang Estado, depends on the confidence of the Batasang Estado (State Assembly).*

*A vote of no confidence in the Gobernador Estado by a majority of the members in the Batasang Estado may force the dissolution of the Batasang Estado and the election of a new Gobernador Estado. The career and professional State Civil Service headed by the Permanent Directors General of the various State Departments and major agencies in the Estado help provide the needed continuity and stability of State powers, functions and administration.*



**Section 1. Batasang Estado.** The legislative and executive powers of the *Estado* (State) shall be vested in a unicameral assembly to be called the *Batasang Estado* (State Assembly). It shall have exclusive powers to enact laws over matters enumerated in Article VII, Sections 2 and 3 (List of State Powers and Functions and Concurrent Powers and Functions). Within five years from the ratification of this Constitution, each *Batasang Estado* shall frame the State Constitution which shall be ratified by the voters in the State in a plebiscite that shall coincide with the election of the Members of the *Batasang Estado* (*From the Federalism Research Project*)

**Section 2. Composition.** Each *Batasang Estado* (State Assembly) shall be composed of *Diputados* or members who shall be elected in all the State Assembly districts within the *Estado* (State). Additional *Diputados* shall be chosen from the party list of the political parties contesting in the *Estado*, in accordance with the proportional representation of all the votes obtained by each of the political parties participating in the election. The total number of party list members shall be determined by multiplying the number of legislative (State Assembly) districts by two and subtracting 1/3 (one-third) from the product. (See NUMBER OF MEMBERS OF THE BATASANG ESTADOS (STATE ASSEMBLIES) IN THE TEN STATES on page 37.)

**Section 3. Registration of political parties.** The political parties shall be duly registered with the Federal Commission on Elections. Voters shall cast one vote for their candidate for the *Batasang Estado* in the assembly district and another vote for the political party of their choice in the State Assembly election. The names of the political party candidates shall be indicated in the official party lists to be provided by the Federal Commission on Elections, which shall also indicate a brief official statement of the platform or program of government of the different political parties. (*From the Federalism Research Project*)

**Section 4.** Election of members of the *Batasang Estado*. Unless otherwise provided by law, or brought about by the earlier dissolution of the *Batasang Estado*, the regular election of the members of the *Batasang Estado* shall be held on the second Monday of November. (*From the Federalism Research Project*)

**Section 5.** Qualifications. No person shall be a member of the *Batasang Estado* unless he or she is a natural-born citizen of the Philippines, and, on the day of the election, is at least twenty-five years of age, able to read and write, a registered voter, and a resident of the province or city of the State in which he or she will be elected for at least one year immediately preceding the day of the election. (*From the Federalism Research Project and the 1987 Constitution*)

**Section 6.** Term of office. The term of office of the *Diputados* shall be five years and shall commence, unless otherwise provided by law, at noon on the second Monday of January next following their election on the second Monday of October in the preceding year. No Member shall serve for more than fifteen years. (*Adapted from the 1987 Constitution*)

**Section 7.** Election of Members to the *Balay Estados*. Within ten days of its organization and election of its officers, every *Batasang Estado* shall elect two or three of its members to serve as *Senadores* in the *Balay Estados* of the *Parlamento* for a full term of five years following election to the *Batasang Estado*. *Batasang Estados* with less than thirty members shall elect two *Senadores*, those with thirty or more shall elect three *Senadores*.

**Section 8.** No holding of any other office. Except for serving as a member of the *Balay Estados* in the *Parlamento*, no member of the *Batasang Estado* may hold any other office or employment in the government service, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his or her term without forfeiting his or her seat. Neither shall he or she be appointed to any office which may have been created or the emoluments thereof increased during the term for which he or she was elected.

**Section 9.** Duration of the *Batasang Estado*. The *Batasang Estado*, unless sooner dissolved, shall continue for five years from the date of its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the *Batasang Estado* provided that the said period may, while a proclamation of Emergency or of a State of War by the *Parlamento* is in operation, be extended by the *Parlamento* by resolution for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the proclamation has ceased to operate. (*Adapted from the Constitution of India*)

| <u>NUMBER OF MEMBERS IN THE <i>BATASANG ESTADOS</i></u><br>(STATE ASSEMBLIES) AND IN THE<br><i>BALAY ESTADOS</i> (House of States in the <i>Parlamento</i> )<br>IN THE TEN PROPOSED STATES |                                                                            |                       |            |                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------------|------------|-------------------------------------------------------------------------|
| <u>Ten Proposed States</u>                                                                                                                                                                 | <u><i>Batasang Estados</i></u><br>No. of Elected<br>Members<br>(Diputados) | Party List<br>Members | Total      | <u><i>Balay Estados</i></u><br>No. of Elected<br>Members<br>(Senadores) |
| <b>1. Bangsamoro (ARMM)</b> 9                                                                                                                                                              | 9                                                                          | 3                     | 12         | 2                                                                       |
| <b>2. Central and Southern Mindanao</b><br>Region XII. Central Mindanao, 5<br>Region XI. Southern Mindanao, 14                                                                             | 19                                                                         | 7                     | 26         | 2                                                                       |
| <b>3. Western and Northern Mindanao</b><br>Region IX. Western Mindanao, 7<br>Region X. Northern Mindanao, 9<br>Caraga, 7                                                                   | 23                                                                         | 7                     | 31         | 3                                                                       |
| <b>4. Central-Eastern Visayas</b><br>Region VII. Central Visayas, 15<br>Region VIII, East Visayas, 12                                                                                      | 27                                                                         | 9                     | 36         | 3                                                                       |
| <b>5. Western Visayas-Palawan</b><br>Region VI. West Visayas, 18<br>+ Palawan (from Region IV), 1                                                                                          | 19                                                                         | 7                     | 26         | 2                                                                       |
| <b>6. Bicol, Region V. + Romblon</b>                                                                                                                                                       | 15                                                                         | 5                     | 20         | 2                                                                       |
| <b>7. Southern Luzon, Region IV</b><br>less Romblon and Palawan                                                                                                                            | 24                                                                         | 8                     | 32         | 3                                                                       |
| <b>8. Metro Manila (NCR)</b>                                                                                                                                                               | 26                                                                         | 9                     | 35         | 3                                                                       |
| <b>9. Central Luzon, Region III</b>                                                                                                                                                        | 12                                                                         | 8                     | 16         | 2                                                                       |
| <b>10. Northern Luzon</b><br>Region I. Ilocos, 13<br>Region II. Cagayan Valley, 7<br>Cordillera (CAR), 7                                                                                   | 27                                                                         | 9                     | 36         | 3                                                                       |
| <b>Total:</b>                                                                                                                                                                              | <b>201</b>                                                                 | <b>72</b>             | <b>270</b> | <b>25</b>                                                               |

**Editor’s Note.** Every *Estado* (State) has a unicameral, parliamentary *Batasang Estado* (State Assembly) that exercises legislative and executive powers. Every *Estado* will elect one *Diputado* (Assemblyman) in every State Assembly district within the *Estado* (The State Assembly district corresponds to the existing congressional district.). In addition every *Batasang Estado* shall have *Diputados* who shall be chosen by “proportional representation” (PR) of the various political parties—on the basis of their respective share of the total votes cast for *Diputados* in the whole *Estado*.

The number of “PR” Members in every *Batasang Estado* is determined by a formula: i.e., the number of State Assembly or congressional districts in the *Estado* x 2, minus 1/3 of the product. For example, the State of Central Luzon has 12 State Assembly or congressional districts: 12 x 2 = 24 less 1/3 of 24 = 16. Or, the State of Central-Eastern Visayas has 27 State Assembly or congressional districts: 27 x 2 = 54 less 1/3 of 54 = 36. The size of the *Batasang Estados* is limited to reduce the expenditures of the States.

Every *Batasang Estado* shall elect two or three of its members to serve to serve as *Senadores* or members of the *Balay Estados* (House of the States, the second chamber in the *Parlamento*) that represents each and all of the States and the Nation.

**Section 10. Constructive vote of no confidence.** (1) The *Batasang Estado* may express its lack of confidence in the *Gobernador Estado* only by electing a successor with the majority of its Members and requesting the *Presidente* to dismiss the incumbent. The *Presidente* must comply with the request and appoint the Member elected. (*Adapted from the Constitution of the Federal Republic of Germany*),

(2) Forty-eight hours must elapse between a motion for a constructive vote of no confidence and the vote on the motion. The *Batasang Estado* may vote on such a motion only once in the same session. (*From Dr. Alfredo C. Robles, Jr., citing Article 49, paragraph 2 of the French Constitution*)

**Section 11. Vote of confidence; dissolution of the Batasang Estado.** (1) The *Gobernador Estado* may request a vote of confidence from the *Batasang Estado* when a bill is put to a vote. The bill is considered adopted unless a constructive vote of no confidence is passed in the second condition laid down by Section 8 of this Article,

(2) The *Gobernador Estado* may request a vote of confidence from the *Batasang Estado* on government programs or a general declaration of policy. Forty-eight hours must elapse between the motion of the *Gobernador Estado* for a vote of confidence and the vote thereon. If the vote of confidence is not carried by the majority of the Members of the *Batasang Estado*, the *Presidente* shall, upon the advice of the *Gobernador Estado*, dissolve the *Batasang Estado* within twenty-one days. (*Adapted from Dr. Alfredo C. Robles, Jr., citing Article 43, paragraph 3 of the French Constitution*). (3) The right of the dissolution shall lapse as soon as the *Batasang Estado* elects another *Gobernador Estado* by a majority vote of its Members. (*Adapted from the Constitution of the Federal Republic of Germany*)

**Section 12. Dissolution of the Batasang Estado on the initiative of the Gobernador Estado.** The *Gobernador Estado* may request the dissolution of the *Batasang Estado* by a majority vote of all its Members. Forty-eight hours must elapse between the motion of the *Gobernador Estado* for the dissolution and the vote thereon. If the motion is carried, the *Presidente* shall, upon the advice of the *Gobernador Estado*, dissolve the *Batasang Estado* within twenty-one days following the advice and at the same time call for an election of a new *Batasang Estado* that shall be held not later than sixty days from the dissolution of the existing *Batasang Estado*.

**Section 13. Batasang Estado rules.** The *Batasang Estado* may adopt its rules prescribing the method of electing its Members and conducting its affairs in accordance with this Constitution. (*Adapted from the Constitution of Australia*)

**Section 14. Special election.** In case of vacancy in the *Batasang Estado*, a special election may be called to fill such vacancy in the manner prescribed by law, but the Member(s) thus elected shall serve only for the unexpired term. (*Adapted from the 1987 Constitution*)

**Section 15. Salaries.** The salaries of the members of the *Batasang Estado* shall be \_\_\_\_\_ pesos per annum unless otherwise determined by law. No increase in said compensation shall take effect until after the expiration of the full term of all the Members of the *Batasang Estado* approving such increase. (*From the 1987 Constitution*)

**Section 16. Immunities.** A Member of the *Batasang Estado* shall in all offenses punishable by not more than six years of imprisonment, be privileged from arrest while the *Batasang Estado* is in session. No Member shall be questioned nor be held liable in any other place for any speech or debate in the *Batasang Estado* or in any committee thereof. (*From the 1987 Constitution*)

**Section 17 Sessions.** The *Batasang Estado* shall convene once every year on the third Monday of January for its regular session, unless a different date is fixed by law, and shall continue to be in session for such number of days as it may determine until thirty days before the opening of its next regular session, exclusive of Saturdays, Sundays, and legal holidays. The *Gobernador Estado* may call a special session at any time. (*From the 1987 Constitution*)

**Section 18. Rules, discipline, Journal.** The *Batasang Estado* may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, suspend or expel a Member. A penalty of suspension, when imposed, shall not exceed sixty days. It shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may, in its judgment, affect national security; and the yeas and nays on any question shall, at the request of one-fifth of the Members present, be entered in the Journal. (*From the 1987 Constitution*)

**Section 19. Electoral Tribunal.** The *Batasang Estado* shall have an Electoral Tribunal which shall be the sole judge of all contests relating to the election returns and the qualifications of its Members. (*From the 1987 Constitution*)

**Section 20. Transparency.** The records and books of accounts of the *Batasang Estado* shall be preserved and be open to the public in accordance with law, and such books shall be audited by the Federal Commission on Audit which shall publish annually an itemized list of amounts paid to and expenses incurred for each Member. (*From the 1987 Constitution*)

**Section 21. Inquiries in aid of legislation.** The *Batasang Estado* or any of its committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The dignity and rights of persons appearing in or affected by such inquiries shall be respected. (*From the 1987 Constitution*)

**Section 22. Question Hour.** The *Secretaryos* or heads of the various departments of the State shall, as the rules of the *Batasang Estado*, answer questions on any matter pertaining to their departments during the period scheduled for the purpose. Written questions may be submitted to the *Gobernador Estado* and the Speaker of the *Batasang Estado* at least three days before the scheduled period. Interpellations shall not be limited to written questions, but may cover matters related thereto. When the security of the State or the public interest so requires and the *Gobernador Estado* so states in writing, the deliberations shall be conducted in executive session.

**Section 23. State budget.** (1) The *Batasang Estado* may not increase the appropriations recommended by the *Gobernador Estado* for the operation of the State Government as specified in the State budget. The form, content, and manner of preparation of the budget shall be prescribed by law.

(2) No provision or enactment shall be embraced in the general appropriations bill unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.

(3) The procedure in approving appropriations for the *Batasang Estado* shall strictly follow the procedure for approving appropriations for other departments and agencies.

(4) A special appropriations bill shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified by the State Treasurer, or to be raised by a corresponding revenue proposal therein.

(5) No law shall be passed authorizing any transfer of appropriations; however, the *Gobernador Estado*, the Speaker of the *Batasang Estado*, the *Tagapangulo* of the *Mataas na Hukumang Estado* (State High Court), and the *Secretaryos* may, by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.

(6) Discretionary funds appropriated for particular officials shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law.

(7) If, by the end of any fiscal year, the *Batasang Estado* shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be deemed reenacted and shall remain in force and effect until the general appropriations bill is passed by the *Batasang Estado*.

**Section 24. Enactment of bills.** (1) Every bill passed by the *Batasang Estado* shall embrace only one subject which shall be expressed in the title thereof.

(2) No bill passed by the *Batasang Estado* 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 *Gobernador Estado* 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 25. Approval and promulgation of a bill.** (1) Every bill passed by the *Batasang Estado* shall, before it becomes a law, be presented to the *Gobernador Estado* for approval and promulgation.



**Section 26. Ordinances.** (1) If at any time, except when the *Batasang Estado* is in session, the *Gobernador Estado* is satisfied that circumstances exist which render it necessary for him or her to take immediate action, he or she may promulgate such Ordinances as the circumstances appear to him to require. (*From the Constitution of India*)

**Section 27. Appellate jurisdiction of the *Mataas na Hukumang Estado*.** No law shall be passed increasing the appellate jurisdiction of the *Mataas na Hukumang Estado* (State High Court) as provided in this Constitution without its advice and concurrence.

## **ARTICLE XVI. The Gobyerno Lokal of the Estados** **(The Local Governments of the States)**

**Editor's Note.** *In addition to our own ideas, we have adapted ideas from the 1987 Constitution, the Local Government Code of 1991, the Constitutions of Alaska, Queensland Australia, and Australia.*



**Section 1. Authority and autonomy for local self-governance.** As political subdivisions of the *Estados* (States), the local governments shall be vested with the autonomy and authority that will enable them to perform their functions efficiently and effectively, to attain their full potential as self-reliant communities, and to collaborate with the *Estados* and the *Federasyon* in achieving common goals for their mutual benefit. Toward these ends, local government leaders and citizens shall exercise initiative, resourcefulness and the will to assume the responsibilities of self-governance and cooperation with the *Federasyon*. A liberal construction shall be given to the powers and functions of local governments. (*Derived from Local Government Code of 1991, Section 1; and Constitution of the State of Alaska*)

**Section 2. Creating and changing a local government.** A local government may be created, merged, amalgamated, abolished or its boundaries altered either by law enacted by the *Batasang Estado* in the case of a city or municipality, or by ordinance passed by the *Sangguniang Panglunsod*, or by the *Sangguniang Pambayan* in the case of a barangay located within its territorial jurisdiction. Any of such changes shall take effect only upon their ratification by the voters in the affected local governments. (*CMFP Draft Constitution; Local Government Code of 1991; Constitution of Queensland, Australia*)

**Section 3. Capacity and viability.** As a general rule, the creation of a local government or its conversion from one level to another shall be based on verifiable indicators of viability and projected capacity, including income, population, land area, and other resources. Consolidation of local governments to make them more effective and viable shall be favored over their fragmentation into smaller weakened subdivisions. (*Local Government Code of 1991*)

**Section 4. Merger and amalgamation.** Local governments may on their own decide to merge with other local governments after the conduct of a plebiscite among the affected citizens. Mergers and amalgamations may be carried out if the local governments are not viable and do not have the capacity for self-governance in terms of income, population and resources. A local government that spends as much as forty percent of its income on salaries and wages for five consecutive years shall be amalgamated with the larger contiguous local government.

**Section 5. Cooperation among local governments.** Local governments may, through appropriate ordinance, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them. (*Local Government Code of 1991, Section 33*)

**Section 6. Sources of revenue and taxation.** Each local government shall have the power to create its own sources of revenue and to levy taxes, fees, and charges, subject to such guidelines and limitations as the *Batasang Estado* may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments. (*Adapted from the 1987 Constitution*)

**Section 7. Share of Federal taxes.** Local governments shall have a just share of the Federal taxes, as determined by law. Their share shall be automatically released to them. (*Adapted from the 1987 Constitution*)

**Section 8. Share of national wealth.** Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants in the areas as direct benefits. (*Adapted from the 1987 Constitution*)

**Section 9. State and local government code.** The *Batasang Estado* shall enact a State and Local Government Code which shall provide for a responsible and accountable local government structure founded on the fundamental principle of genuine and meaningful autonomy, with effective mechanisms of recall, initiative and referendum, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of local governments.

The Code shall provide for fair and appropriate revenue sharing schemes and mechanisms between and among the State and local governments based on criteria that shall include population, land area, resources, poverty incidence, development needs and performance of local governments. The Code may provide for the constitution of a body that shall periodically determine and revenue sharing schemes between the State and local governments. (*Local Government Code of 1991; Australian model on Grants Commission*)

## ARTICLE XVII. The Judiciary

**Editor's Note.** *The time-honored principles and practices ensuring the Rule of Law and the independence of the Judiciary, human rights and due process of law, and the selection of justices and judges are preserved in the revision of Article VIII. The Judiciary in the 1987 Constitution.*

*There are two different sets of views on the Judiciary. One is to retain the national scope of the Judiciary, in other words the continuation of the existing Judiciary that will serve the Federation and the States. In this view, however, there will be a Constitutional Court that will address all constitutional issues. The Court of Appeals will have a Division located in the capital of each State.*

*An alternative, in view of the shift to a Federal System and to a Parliamentary System, is to make some basic changes in the structure and functions of the Judiciary. These include the division of the courts into Federal courts and State courts, the decentralization of the Court of Appeals—renamed the Federal Court of Appeals—to the State capitals, and the establishment of the **Constitutional Tribunal** to decide on cases involving the constitutionality of laws and official decisions and actions, and conflicts among the Federation and the States, and between and among the States.*

*The alternative view is presented below as preferred by the Citizens Movement for a Federal Republic.*



**Section 1. Judicial power.** Judicial power is vested in the *Kataas-taasang Hukuman ng Pilipinas* (the Supreme Court of the Philippines), the *Tribunal Konstitusyonal* (Constitutional Tribunal) and other Federal courts, and in the courts of the *Estados* (the States). (*Adapted from the 1987 Constitution and the Constitution of the Federal Republic of Germany*). Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and on the part of the *Tribunal Konstitusyonal* 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 *Federasyon* (Federation) or the *Estados* (States). (*Adapted from the 1987 Constitution*)

**Section 2. Judicial independence.** The *Parlamento* shall have the power to define, prescribe, and apportion the jurisdiction of the various Federal courts but may not deprive the *Kataas-taasang Hukuman* and the *Tribunal Konstitusyonal* of their jurisdiction over the cases enumerated respectively in Section 8 and Section 9 below. No Federal or State law shall be passed reorganizing the Judiciary when it undermines the security of tenure of its Members. (*Adapted from the 1987 Constitution*)

**Section 3. The Federal Judiciary.** The *Kataas-taasang Hukuman*, the *Tribunal Konstitusyonal*, the Federal Court of Appeals, the *Sandiganbayan*, and the Court of Tax Appeals are under the jurisdiction of the *Federasyon* (Federation). The *Kataas-taasang Hukuman* shall have administrative supervision over all Federal courts and the personnel thereof, except the *Tribunal Konstitusyonal*. (*Adapted from the 1987 Philippine Constitution*). To facilitate access by and from the courts of the *Estados*, divisions of the Federal Court of Appeals shall be located in the capital cities of the various *Estados*.

**Section 4. The Judiciary of the States.** The *Mataas na Hukumang Estado* (The State High Court), Regional Trial Courts, the Municipal Trial Courts, the Municipal Circuit Trial Courts, Municipal Trial Courts in the Cities, the *Sharia* Circuit Trial Courts and other inferior courts are under the jurisdiction of the *Estados* (the States). All State courts shall be under the administrative supervision of the *Mataas na Hukumang Estado* (The State High Court) which shall be located in the capital city of the *Estado*.

**Section 5. Fiscal autonomy.** The Judiciary shall enjoy fiscal autonomy. Appropriations for the Judiciary may not be reduced by the *Parlamento* or the *Batasang Estados* below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released. (*Adapted from the 1987 Constitution*)

**Section 6. Organization of the Kataas-taasang Hukuman.** The *Kataas-taasang Hukuman* shall be composed of a *Punong Mahistrado* (Chief Justice) and fourteen Associate Justices. It may sit *en banc* or in its discretion, in divisions of three, five, or seven Members. Any vacancy shall be filled within ninety days from the occurrence thereof.

**Section 7. Hearing, decision-making.** Cases or matters heard by a division of the *Kataas-taasang Hukuman* shall be decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. When the required number is not obtained, the case shall be decided *en banc*: Provided, that no doctrine or principle of law laid down by the Court in a decision rendered *en banc* or in division may be modified or reversed except by the Court sitting *en banc*.

**Section 8. Powers.** The *Kataas-taasang Hukuman* (Supreme Court) shall have the following powers:

1. Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, *quo warranto*, and *habeas corpus*; (*Adapted from the 1987 Constitution*)
2. Assign temporarily judges of lower Federal courts to other stations as public interest may require. Such temporary assignment shall not exceed six months without the consent of the judge concerned; (*Adapted from the 1987 Constitution*)

3. Order a change of venue or place of trial to avoid a miscarriage of justice; (*Adapted from the 1987 Constitution*)
4. Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the *Kataas-taasang Hukuman Federal*; (*Adapted from the 1987 Constitution*)
5. Appoint all officials and employees of the Federal Judiciary in accordance with the Civil Service Law; (*Adapted from the 1987 Constitution*)
6. Review, revise, reverse, modify, or affirm on appeal or certiorari as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
  - a. All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.
  - b. All cases in which the jurisdiction of any lower court is in issue.
  - c. All criminal cases in which the penalty imposed is *reclusion perpetua* or higher.
  - d. All cases in which only an error or question of law is involved. (*Adapted from the 1987 Constitution*)
7. Any others conferred on it by the *Parlamento*. (*From the Constitution of Venezuela*)

**Section 9.** *Tribunal Konstitusyonal* (Constitutional Tribunal). There shall be a *Tribunal Konstitusyonal* headed by its *Tagapangulo* (Chair), which shall have the following powers:

1. To resolve the conflicts between the *Federasyon* and the *Estados*, between and among the *Estados*, between a citizen or citizens of an *Estado* and another *Estado* and between government instrumentalities;
2. To decide in all impeachment proceedings, and all other cases involving public law; (*From the 1987 Constitution*);
3. To declare the total or partial nullity of national laws and other acts of the *Parlamento* that conflict with this Constitution;
4. To declare the total or partial nullity of State laws, municipal ordinances, and other acts of the *Batasang Estados* (State Assemblies) and other deliberative bodies of the *Estados* and their constituent local governments that conflict with this Constitution;
5. To declare the nullity of regulations and other acts of the *Presidente*, (the President) the *Punong Ministro* (Prime Minister), and other Federal legislators and Federal executives when they act in violation of this Constitution;

6. To declare the nullity of regulations and other acts of *Gobernadores* (State Governors), *Bise Gobernadores* (Vice Governors), and other State executives when they violate this Constitution;
7. To settle any conflicts that may exist between different legal provisions and declare which of them is to prevail;
8. To hear cases in cessation; and
9. Any other matters conferred on it by the *Parlamento*. (*Adapted from the Constitution of Venezuela; also compare with the German Constitutional Tribunal*)

**Section 10. Hearing and decision-making.** All cases involving the constitutionality of a treaty, international or executive agreement, or a Federal or state law, which shall be heard by the *Tribunal Konstitusyonal en banc*, and all other cases which under the Rules of Court are required to be heard *en banc*, including those involving the constitutionality, application, or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon. (*Adapted from the 1987 Constitution*)

**Section 11. Qualifications of members of the Judiciary.** (1) No person shall be appointed Member of the *Kataas-taasang Hukuman*, the *Tribunal Konstitusyonal*, or any other Federal or State courts unless he or she is a natural-born citizen of the Philippines. A Member of the *Kataas-taasang Hukuman* and the *Tribunal Konstitusyonal* must be at least forty years of age, and must have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines.

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

(3) A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence. (*From the 1987 Constitution*)

**Section 12. Judicial and Bar Council.** (1) A Judicial and Bar Council is hereby created under the supervision of the *Kataas-taasang Hukuman* composed of the *Punong Mahistrado* as ex officio Chairman, the Minister of Justice, and a representative of the *Parlamento* as ex officio Members, a representative of the Integrated Bar, a professor of law, a retired Member of the *Kataas-taasang Hukuman*, and a representative of the private sector.

(2) The regular Members of the Council shall be appointed by the *Presidente* for a term of four years. Of the Members first appointed, the representative of the Integrated Bar shall serve for four years, the professor of law for three years, the retired Justice for two years, and the representative of the private sector for one year.

(3) The Clerk of the *Kataas-taasang Hukuman* shall be the Secretary ex officio of the Council and shall keep a record of its proceedings.

(4) The regular Members of the Council shall receive such emoluments as may be determined by the *Kataas-taasang Hukuman*. The *Kataas-taasang Hukuman* shall provide in its annual budget the appropriations for the Council.

(5) The Council shall have the principal function of recommending appointees to the Judiciary. It may exercise such other functions and duties as the *Kataas-taasang Hukuman* may assign to it.

**Section 13. Appointment to the Federal courts.** The Members of the *Kataas-taasang Hukuman* and the *Tribunal Konstitusyonal* and the judges of lower Federal courts shall be appointed by the *Presidente* from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation. For the lower Federal courts, the *Presidente* shall issue the appointments within ninety days from the submission of the list.

**Section 14. Appointment to the States' courts.** The *Tagapangulo* (Chairman) and Members of the *Mataas na Hukumang Estado* (State High Court) and the judges of other State courts shall be appointed by the *Gobernador* (State Governor) from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation. The *Gobernador* shall issue the appointments within ninety days from the submission of the list.

**Section 15. Salaries.** The salary of the *Punong Mahistrado* (Chief Justice) and of the Associate Justices of the *Kataas-taasang Hukuman*, of the *Tagapangulo* and Associate Justices of the *Tribunal Konstitusyonal*, and of judges of lower Federal courts and State courts shall be fixed by law. During their continuance in office, their salary shall not be decreased.

**Section 16. Tenure and discipline.** The Members of the *Kataas-taasang Hukuman* and the *Tribunal Konstitusyonal* and the judges of lower Federal courts and States 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 *Kataas-taasang Hukuman en banc* shall have the power of discipline judges of lower Federal courts and State 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. The *Tribunal Konstitusyonal* shall have the power to discipline its members.

**Section 17. Prohibited designation of members of the Judiciary.** The Members of the *Kataas-taasang Hukuman*, *Tribunal Konstitusyonal*, and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions.

**Section 18. Court conclusions, opinions.** The conclusions of the *Kataas-taasang Hukuman* in any case submitted to it for decision *en banc* or in division shall be reached in consultation before the case is assigned to a Member for the writing of the opinion of the Court. A certification to this effect signed by the *Punong Mahistrado* shall be issued and a copy thereof attached to the record of the case and served upon the parties. Any Members who took no part, or dissented, or abstained from a decision or resolution must

state the reason thereof. The same requirements shall be observed by all lower collegiate courts.

**Section 19. Decisions, their review and reconsideration.** No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis thereof.

**Section 20. Ensuring speedy trial.** (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the *Kataas-taasang Hukuman* and *Tribunal Konstitusyonal*, and, unless reduced by the *Kataas-taasang Hukuman*, twelve months for all lower collegiate courts, and three months for all other lower Federal and State courts.

(2) A case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.

(3) Upon the expiration of the corresponding period, a certification to this effect signed by the *Punong Mahistrado* or the presiding judge shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served upon the parties. The certification shall state why a decision or resolution has not been rendered or issued within said period.

(4) Despite the expiration of the applicable mandatory period, the court, without prejudice to such responsibility as may have been incurred in consequence thereof, shall decide or resolve the case or matter submitted thereto for determination, without further delay.

**Section 21. Annual report of high courts.** The *Kataas-taasang Hukuman*, the *Tribunal Konstitusyonal*, and the *Mataas na Hukumang Estado* in every State shall, within thirty days from the opening of each regular session of the *Parlamento*, submit to the *Presidente* and the *Punong Ministro* an annual report on the operations and activities of the Judiciary under their administrative supervision. (*Adapted from the 1987 Constitution*)

**Section 22. Full decentralization, devolution.** Within five years from the promulgation of this Constitution, the *Kataas-taasang Hukuman* shall supervise the full decentralization of the Federal Court of Appeals to the capital cities of the *Estados* and the complete transfer of jurisdiction of the various lower courts from the *Kataas-taasang Hukuman* to the *Mataas na Hukumang Estados* (High Courts in the States).



**ARTICLE XVIII. The Pideral Komisyones Konstitusyonal (Federal Constitutional Commissions)**

**Editor's Note.** *We produced a draft adapted from the 1987 Constitution with amendments by the Federalism Research Project based on the experience of government administrators, business executives, and civil society leaders. But we are not including the text of Article VIII in order to shorten our Draft Constitution.*

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*[Note. The foregoing **CMFP Draft Constitution** is focused on the shifts from the Unitary System to the Federal System, and from the Presidential Government to the Parliamentary Governmen,t and other reforms.]*

The rest of the text of a full "Draft Constitution" shall deal with:

- *Federal Constitutional Commissions*
- *Accountability of Public Officers*
- *General Provisions*
- *Amendments or Revisions*
- *Transitory Provisions*
- *And, maybe, an Article condensing the substance of the provisions of the 1987 Constitution concerned with the following:*
 - *National Economy and Patrimony*
 - *Justice and Human Rights*
 - *Education, Science and Technology*
 - *Arts, Culture, and Sports, and*
 - *The Family.*

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