



CIVIL LAW

Civil Law

→ the branch of private law that governs relations among persons (natural or juridical) regarding family relations, property, obligations and contracts, and civil liability (including quasi-delicts), as distinguished from public law like criminal and administrative law.

Article 19. Abuse of Rights Standard

Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

- Definition: Sets the **minimum standard** of civilized conduct in exercising rights; when a right is technically lawful but exercised in bad faith or to injure another, liability may arise (usually together with Articles 20 or 21).

Key notes:

- (1) Source of “abuse of rights” doctrine.
- (2) Requires: (a) legal right, (b) exercise in bad faith or with intent to injure, (c) damage.

Article 20. Acts “Contrary to Law”

Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

- Definition: Creates a cause of action when:
 - A specific law is violated;
 - The violation is willful or negligent;
 - The violation causes damage.

Article 21. Acts Contra Bonus Mores (Contrary to Morals, Good Customs, Public Policy)

Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage

- Definition:
 - Covers **lawful** acts performed in a way that is morally or socially unacceptable (acts contra bonus mores).
 - Requires: (1) legal act, (2) contrary to morals/good customs/public policy, (3) done with intent to injure, (4) damage.

Key notes:

- (1) Often used for breach of promise to marry cases where the promise is used to seduce, or where bad faith and humiliation are evident.

Article 22. Unjust Enrichment; Basis of Accion in Rem Verso

Every person who, through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

- Definition: Implements the principle of unjust enrichment; a person who is enriched at another’s expense without legal cause must restore the benefit. Basis of **accion in rem verso**.

Key notes:

- (1) Enrichment of defendant;
- (2) Corresponding impoverishment of plaintiff;
- (3) Lack of just/legal cause;
- (4) Absence of another legal remedy (subsidiary).

Article 23. Negligent Acts Not Criminal But Causing Damage

When a person’s act or omission causes damage to another, there being fault or negligence but no criminal liability, the provisions on obligations shall be applied.

- Clarifies that even if an act is not a crime, civil liability may still arise for negligence under the Civil Code (especially Article 2176 on quasi-delict).

Article 24. Protection of Disadvantaged Parties

In all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection.

- Definition: Directs courts to extend **special protection** to weaker or vulnerable parties in private relations to avoid oppression or exploitation.

Article 25. Thoughtless Extravagance and Similar Acts

Thoughtless extravagance in expenses for pleasure or display during times of acute public want or general distress may be stopped by the State; other acts that are contrary to good customs or unjustifiably prejudice another’s dignity may also be repressed.

- Definition: Authorizes repression of **thoughtless extravagance** and similar socially offensive acts, especially in times of public calamity or general distress.

Article 26. Respect for Personality, Privacy, and Dignity

Every person shall respect the dignity, personality, privacy and peace of mind of others. Acts such as prying into the privacy of another’s residence, meddling with private life, or vexing or humiliating another on account of religious beliefs, lowly station, place of birth, physical defect, or other personal condition may be enjoined and give rise to damages.

- Protects **personality rights**—privacy, dignity, peace of mind—by making certain intrusions

and humiliations independently actionable.

- Key link: Often invoked together with Articles 19 and 21 in cases of public humiliation or invasion of privacy (e.g., public shaming, discriminatory treatment).

Volenti Non Fit Injura Doctrine

Meaning: "To the willing, no injury is done."

- Definition:
 - A defense in tort/quasi-delict whereby the plaintiff cannot recover for harm resulting from a risk he knowingly and voluntarily assumed.
 - Requires: (1) knowledge of risk, (2) voluntary consent, (3) injury within the scope of that consent.

Persons

→ natural and juridical

a. **Natural Persons** – is a human being who is the subject of legal relations (can hold rights and obligations). Civil personality begins at birth and ends at death, subject to certain rights conceived from conception (e.g., succession).

i. Example:

1. Any Filipino citizen is a natural person who can own property, enter into contracts, sue and be sued, subject to limitations on capacity to act (e.g., minority).

2. Hypothetical (natural person):

a. A 16-year-old senior high student runs a successful online shop. She is a natural person, but her **capacity to act** in contracts (e.g., long-term leases) is restricted by minority, so contracts she signs alone may be voidable.

b. **Juridical Persons** – is an entity (not a human being) to which the law grants legal personality separate from the individuals who compose it (e.g., corporations, partnerships, associations, the State and its subdivisions).

i. Examples:

1. The State and LGUs (e.g., Quezon City).
2. Corporations (e.g., a stock corporation registered with the SEC).
3. Partnerships and associations

(e.g., a law partnership, a non-stock NGO) given separate legal personality by law.

Article 37. Juridical Capacity vs Capacity to Act

"Juridical capacity, which is the fitness to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act, which is the power to do acts with legal effect, is acquired and may be lost."

- **Juridical capacity:** Fitness to be the subject of rights and obligations; inherent in every natural person from birth and lost only at death; equal in all persons.
- **Capacity to act:** Power to perform acts with legal effect (e.g., to enter into contracts); acquired progressively and may be restricted or lost (e.g., minority, insanity).

Key notes:

- No degrees of juridical capacity: every living person can be a subject of rights (even infants).
- Capacity to act is never 100% (law always imposes some limits, e.g., on foreign ownership) and never 0% (even minors have rights to support, inheritance, bodily integrity).

Article 38. Restrictions on Capacity to Act

"Minority, insanity or imbecility, the state of being a deaf-mute, prodigality and civil interdiction are mere restrictions on capacity to act, and do not exempt the incapacitated person from certain obligations, as when the latter arise from his acts or from property relations, such as easements."

- Definition:
 - Article 38 enumerates conditions that restrict capacity to act (minority, insanity, deaf-mutism, prodigality, civil interdiction).rossvilleviolanta.wordpress +1.
 - These are **restrictions**, not total loss of civil personality; such persons remain bound by certain obligations (e.g., obligations arising from their property or from quasi-delicts).

Selected Legal Maxims

1. **Salus populi est suprema lex** - The welfare of the people is the supreme law
 - a. Ultimate goal of the law and the government should be the well-being of the public which can sometimes override individual interests
2. **Vox Populi, Vox Dei** - The voice of the people is the voice of God

- a. Suggests that the collective will or opinion of the people carries great authority or truth
3. **Nullum Crimen, nulla poena sine lege** - There is no crime when there is no law punishing it
 - a. You can not be punished for an act that was not a crime at the time it was committed
 4. **Potius sero quam nunquam** - It is better to be late than never
 5. **Nemo est supra legis** - No one is above the law
 - a. Everyone, regardless of rank or power, is subject to the same legal standards. NO EXEMPTION.
 6. **Ignorantiam legis neminem excusat** - Ignorance of the law excuses no one
 - a. You can not escape liability by simply claiming you did not know that the law you violated exists.
 7. **Dura lex, sed lex** - The law is harsh but that is the law
 - a. It must be followed and enforced even when the results seems strict or unforgiving
 8. **Damnum absque injuria** - Damage without any legal injury
 - a. A loss or harm that occurred but does not grant legal cause of action (i.e. losing business to a legitimate competitor.)
 9. **Stare decisis et non quieta movere** - There must be no departure from settled precedents.
 - a. The courts should follow previous rulings to ensure consistency and stability in the law
 10. **Ubi jus, ibi remedium** - Where there is a right, there is a remedy
 - a. If the law recognizes a legal right, it must also provide a way to enforce that right or recover for its violation
 11. **Res judicata inter partes jus facit** - An issue judicially settled between the parties is the law of that issue
 - a. Final court decisions are binding on the parties
 12. **Noscitur a sociis** - Meaning should be derived from accompanying words
 - a. Ambiguous words shall be determined by the specifics of the words surrounding it
 13. **Ejusdem generis** - An enumeration of a class of things includes all others of the same class
 - a. General terms are limited to the same category as the specific list preceding them
 14. **Inclusio unius est exclusio alterius** - Those that are included excludes those that are not mentioned
 - a. Mentioning one thing, person or consequence constitutes that there is an intention to exclude those that are not mentioned
 15. **Lex prospicit non respicit** - The law looks forward, not backwards
 - a. Laws should operate prospectively to ensure that people are not penalized for acts that were not considered illegal during the time it was committed with no pertinent law present to punish a person
 16. **Pacta sunt servanda** - Agreement between the parties must be complied in good faith
 17. **Res Ipsa Loquitir** - The thing speaks for itself
 - a. Doctrine for injury cases; the accident itself is considered sufficient evidence of negligence because it would not normally happen without such
 18. **Actus non facit reum nisi mens sit rea** - An act does not necessarily make a person criminal unless he acted with a criminal mind
 - a. No crime exists without both the physical and criminal intent
 19. **Patria potesta** - Parental authority
 20. **Caveat emptor** - Buyers beware
 - a. The buyer is responsible for inspecting a purchase for defects
 21. **Res perit domino** - The thing perishes with the owner
 - a. The owner bears the financial loss if their property is destroyed
 22. **Jus possidendi** - The right to possess
 23. **Jus abutendi** - The right to abuse
 24. **Jus fruendi** - The right to the fruits
 25. **Jus disponendi** - The right to dispose
 26. **Jus vindicadi** - The right to recover
 27. **Solutio indebiti** - Unjust enrichment
 28. **Cessante ratione cessat ipsa lex** - When the reason for the law ceases, the law ceases to exist
 29. **Nullum tempus occurrit regi** - Time runs not against the sovereign
 - a. The state is not restricted by time limits or statues of limitations
 30. **Aedificum solo credit** - The building follows the land

 **FAMILY CODE**

MARRIAGE

Article 1

Marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code.

ESSENTIAL AND FORMAL REQUISITES OF MARRIAGE

Art. 2. No marriage shall be valid, unless these essential requisites are present

- (1) Legal capacity of the contracting parties who must be a male and a female; and
- (2) Consent freely given in the presence of the solemnizing officer.

Art. 3. The formal requisites of marriage are:

- (1) Authority of the solemnizing officer;
- (2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and
- (3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age.

EFFECTS OF THE ABSENCE OF ESSENTIAL AND FORMAL REQUISITES

Article 4

The absence of any of the essential or formal requisites shall render the marriage void ab initio, except as stated in Article 35 (2).

- A defect in any of the essential requisites shall render the marriage voidable as provided in Article 45
- An irregularity in the formal requisites shall not affect the validity of the marriage but the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable

SOLEMNIZING OFFICERS

Article 7: Marriage may be solemnized by:

- (1) Any incumbent member of the judiciary within the court's jurisdiction;

(2) Any priest, rabbi, imam, or minister of any church or religious sect duly authorized by his church or religious sect and registered with the civil registrar general, acting within the limits of the written authority granted by his church or religious sect and provided that at least one of the contracting parties belongs to the solemnizing officer's church or religious sect

(3) Any ship captain or airplane chief only in the case mentioned in Article 31;

(4) Any military commander of a unit to which a chaplain is assigned, in the absence of the latter, during a military operation, likewise only in the cases mentioned in Article 32;

(5) Any consul-general, consul or vice-consul in the case provided in Article 10.

Article 31

A marriage in *articulo mortis* between passengers or crew members may also be solemnized by a ship captain or by an airplane pilot not only while the ship is at sea or the plane is in flight, but also during stopovers at ports of call.

Article 32

A military commander of a unit, who is a commissioned officer, shall likewise have authority to solemnize marriages in *articulo mortis* between persons within the zone of military operation, whether members of the armed forces or civilians.

Article 33

Marriages among Muslims or among members of the ethnic cultural communities may be performed validly without the necessity of marriage license, provided they are solemnized in accordance with their customs, rites or practices.

ARTICLE 34

No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties are found no legal impediment to the marriage.

Article 35: The following marriages shall be void from the beginning

- (1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;
- (2) Those solemnized by any person not legally authorized to perform marriages unless such marriages

were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;

- (3) Those solemnized without license, except those covered the preceding Chapter;
- (4) Those bigamous or polygamous marriages not failing under Article 41;
- (5) Those contracted through mistake of one contracting party as to the identity of the other; and
- (6) Those subsequent marriages that are void under Article 53.

Article 36

A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization. (As amended by Executive Order 227)

Article 37

Marriages between the following are incestuous and void from the beginning, whether relationship between the parties be legitimate or illegitimate:

- (1) Between ascendants and descendants of any degree; and
- (2) Between brothers and sisters, whether of the full or half blood

ARTICLE 38 (VOID FROM THE BEGINNING FOR REASONS OF PUBLIC POLICY)

- (1) Between collateral blood relatives whether legitimate or illegitimate, up to the fourth civil degree;
- (2) Between step-parents and step-children;
- (3) Between parents-in-law and children-in-law;
- (4) Between the adopting parent and the adopted child;
- (5) Between the surviving spouse of the adopting parent and the adopted child;
- (6) Between the surviving spouse of the adopted child and the adopter;
- (7) Between an adopted child and a legitimate child of the adopter;
- (8) Between adopted children of the same adopter; and
- (9) Between parties where one, with the intention to marry the other, killed that other person's spouse, or his or her own spouse.

ARTICLE 39

The action or defense for the declaration of absolute nullity of a marriage shall not prescribe.

ARTICLE 40

The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.

ARTICLE 41

- A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.
- For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

Article 45

A marriage may be annulled for any of the following causes, existing at the time of the marriage:

- (1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife;
- (2) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;
- (3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;
- (4) That the consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;
- (5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable;
- (6) That either party was afflicted with a sexually-transmissible disease found to be serious and appears to be incurable.

Article 46

Any of the following circumstances shall constitute fraud referred to in Number 3 of the preceding Article:

- (1) Non-disclosure of a previous conviction by final judgment of the other party of a crime involving moral turpitude;
- (2) Concealment by the wife of the fact that at the time of the marriage, she was pregnant by a man other than her husband;
- (3) Concealment of sexually transmissible disease, regardless of its nature, existing at the time of the marriage; or
- (4) Concealment of drug addiction, habitual alcoholism or homosexuality or lesbianism existing at the time of the marriage. No other misrepresentation or deceit as to character, health, rank, fortune or chastity shall constitute such fraud as will give grounds for action for the annulment of marriage.

ARTICLE 53

Either of the former spouses may marry again after compliance with the requirements of the immediately preceding Article; otherwise, the subsequent marriage shall be null and void.

Article 55

A petition for legal separation may be filed on any of the following grounds:

- (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
- (2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;
- (4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;
- (5) Drug addiction or habitual alcoholism of the respondent;
- (6) Lesbianism or homosexuality of the respondent;
- (7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;
- (8) Sexual infidelity or perversion;
- (9) Attempt by the respondent against the life of the petitioner; or
- (10) Abandonment of petitioner by respondent without justifiable cause for more than one year. For purposes of this Article, the term "child" shall include a child by nature or by adoption.

Article 56

The petition for legal separation shall be denied on any of the following grounds:

- (1) Where the aggrieved party has condoned the offense or act complained of;
- (2) Where the aggrieved party has consented to the commission of the offense or act complained of;
- (3) Where there is connivance between the parties in the commission of the offense or act constituting the ground for legal separation;
- (4) Where both parties have given ground for legal separation;
- (5) Where there is collusion between the parties to obtain decree of legal separation; or
- (6) Where the action is barred by prescription.

Article 68

The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

Article 70

The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties.

Article 74

The property relationship between husband and wife shall be governed in the following order:

- (1) By marriage settlements executed before the marriage;
- (2) By the provisions of this Code; and
- (3) By the local custom.

Article 75

The future spouses may, in the marriage settlements, agree upon the regime of absolute community, conjugal partnership of gains, complete separation of property, or any other regime. In the absence of a marriage settlement, or when the regime agreed upon is void, the system of absolute community of property as established in this Code shall govern.

Article 92

The following shall be excluded from the community property:

- (1) Property acquired during the marriage by gratuitous title by either spouse, and the fruits as well as the income thereof, if any, unless it is expressly provided by

the donor, testator or grantor that they shall form part of the community property;

(2) Property for personal and exclusive use of either spouse. However, jewelry shall form part of the community property;

(3) Property acquired before the marriage by either spouse who has legitimate descendants by a former marriage, and the fruits as well as the income, if any, of such property.

Article 93

Property acquired during the marriage is presumed to belong to the community, unless it is proved that it is one of those excluded therefrom.

Article 147

- When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.
- In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted in the care and maintenance of the family and of the household.
- Neither party can encumber or dispose by acts inter vivos of his or her share in the property acquired during cohabitation and owned in common, without the consent of the other, until after the termination of their cohabitation.
- When only one of the parties to a void marriage is in good faith, the share of the party in bad faith in the co-ownership shall be forfeited in favor of their common children. In case of default of or waiver by any or all of the common children or their descendants, each vacant share shall belong to the respective surviving descendants. In the absence of descendants, such shares shall belong to the innocent party. In all cases, the forfeiture shall take place upon termination of the cohabitation.

ARTICLE 148

- In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. In the absence of proof to the contrary, their contributions and corresponding shares are presumed to be equal. The same rule and presumption shall apply to joint deposits of money and evidence of credit.
- If one of the parties is validly married to another, his or her share in the co-ownership shall accrue to the absolute community or conjugal partnership existing in such valid marriage. If the party who acted in bad faith is not validly married to another, his or her shall be forfeited in the manner provided in the last paragraph of the preceding Article.
- The foregoing rules on forfeiture shall likewise apply even if both parties are in bad faith.

VOID AND VOIDABLE MARRIAGE

Aspect / Point	Void Marriage	Voidable Marriage
Legal existence	No marriage in the eyes of the law; void <i>ab initio</i> (from the beginning).	Marriage exists and is valid until annulled by final judgment.
Need for court action	Court declaration not needed for intrinsic nullity, but usually sought for record/effects.	Court action (annulment) is indispensable to invalidate the marriage.
Grounds (general idea)	Lack of essential/requisite elements (e.g., no license, no legal capacity, bigamy, incest, psychological incapacity, certain prior marriages under Arts. 35–38, 53).	Defects in consent or capacity (Arts. 45–46: violence, intimidation, fraud, unsound mind, certain age cases, impotence, STI).
Status before decision	Considered null from the start, even before any case is filed.	Fully valid and produces all civil effects until annulled.
Who may file	Generally any interested party (including spouses, heirs, or	Only the spouse(s) and in some cases limited representatives (parents/guardians, next friends).

	third parties with legal interest).	
Type of attack	Can be attacked directly (nullity action) or collaterally (raised in another case).	Can only be attacked directly in an annulment case; no collateral attack allowed.
Prescriptive period	Action to declare nullity does not prescribe.	Action for annulment is subject to prescriptive periods depending on the ground.
Right to remarry	Parties are free to marry (after proper declaration/recording for practical purposes) because no valid marriage exists.	Parties cannot remarry until a decree of annulment; otherwise, bigamy issues may arise.
Legitimacy of children	Children are legitimate if at least one parent acted in good faith (putative marriage doctrine); special rules apply (e.g., Art. 36 psychological incapacity).	Children conceived or born before finality of annulment are legitimate.
Property relations	Usually co-ownership applies to properties acquired during union in fact; liquidation follows special rules upon declaration.	Property regime (absolute community or conjugal partnership) applies until annulment, then liquidated under Family Code rules.
Maintenance rights	Limited because there is no valid marriage, though support may be allowed in equity/statute.	Spouses may claim support and other marital rights while the marriage subsists.
Examples	Bigamous marriage, incestuous marriage, marriage without license (subject to exceptions), marriage void for psychological incapacity, subsequent marriage without compliance with Art. 52.	Marriage where consent was obtained by fraud or intimidation, marriage with unsound mind, incurable impotence, or serious/incurable STI.

PSYCHOLOGICAL INCAPACITY

Psychological incapacity is a personal condition of a spouse that makes it truly impossible for that spouse to understand and perform the essential obligations of marriage, so that the marriage is void under Article 36 of the Family Code.

ELEMENTS

- It is a psychological (not physical) incapacity rooted in the spouse's personality structure, affecting the ability to live with, love, respect, be faithful to, and support the other spouse.
- It must already exist at the time of the celebration of the marriage, even if it appears or becomes obvious only after the wedding.
- It must be grave and enduring: more than simple immaturity, infidelity, stubbornness, or marital difficulty; it reflects a deep, persistent inability, not just unwillingness, to assume marital duties toward that specific partner.

COMPARISON: ARTICLE 37 vs. ARTICLE 38

Point of Comparison	Article 37 – Incestuous Marriages	Article 38 – Marriages Against Public Policy
Main idea	Marriages that are incestuous.	Marriages that offend public policy.
Kind of relationship	Very close lineal and fraternal blood relatives.	Other close or improper relations (affinity, adoption, collateral).
Examples of parties	Parent-child; grandparent-grandchild; full or half siblings.	Uncle-niece; step-parent-step-child; parent-in-law-child-in-law; adopter-adopted; certain collateral relatives.
Basis of prohibition	Protects against incest, genetic and moral harm.	Protects family hierarchy, roles, and social morals.
Whether marriage is void	Yes, void from the beginning.	Yes, also void from the beginning.
Nature of relationship	Focus on consanguinity (blood) in direct line or between siblings.	Often involves affinity, adoption, or more remote consanguinity.

ANNULMENT / DECLARATION OF NULLITY vs. LEGAL SEPARATION

PROPERTY REGIMES COMPARISON

Point of Comparison	Annulment / Declaration of Nullity	Legal Separation
Effect on marriage	Marital bond is ended: marriage is declared void or voidable and set aside.	Marital bond remains: spouses are only allowed to live separately.
Civil status after decree	Parties become free to contract a new valid marriage (after proper recording).	Parties remain legally married to each other.
Right to remarry	Yes, once decree is final and recorded.	No, remarriage is not allowed.
Basic focus of grounds	Defects in essential requisites of marriage existing at the time of celebration (e.g., lack of consent, psychological incapacity, fraud, force, incapacity).	Serious marital faults or causes occurring after marriage (e.g., repeated violence, infidelity, attempt on life, abandonment, addiction).
Time relation of grounds	Grounds must be present at or before the celebration of marriage.	Grounds consist of acts or conditions arising during the marriage.
Property relations	Property regime (absolute community/conjugal partnership) is dissolved and liquidated as part of nullity/annulment.	Community or conjugal property is also separated and liquidated, but the marriage continues.
Use of term	“Annulment” colloquially used for both void and voidable marriages; legally, annulment (voidable) vs. declaration of nullity (void).	Strictly “legal separation”; no effect on the existence of the marriage itself.
Status of children	Children remain legitimate if conceived/born in a voidable or putative marriage; special rules apply for void marriages.	Children remain legitimate; legal separation does not affect their legitimacy.
Possibility of reconciliation	If spouses reconcile, they may restore marital relations; void/voidable status is a legal matter, not just factual reunion.	Spouses may reconcile; they can resume cohabitation and ask the court to set aside the decree.
Typical practical outcome	Ends the relationship and allows a new marriage.	Regulates separation of lives and properties, but no new marriage.

Point of Comparison	Absolute Community of Property (ACP)	Conjugal Partnership of Gains (CPG)	Complete Separation of Property
Basic concept	Almost all properties of the spouses (before and during marriage) form one common pool, except those expressly excluded by law.	Only the fruits, income, and properties acquired during the marriage are common; premarital properties generally remain exclusive.	Each spouse keeps separate ownership of his/her properties, both before and during marriage; no common fund by default.
When it applies by default	Default regime under the Family Code if there is no valid marriage settlement.	Default regime for marriages celebrated before the Family Code (pre-Aug. 3, 1988), or if expressly agreed upon in a valid settlement.	Applies only if expressly agreed upon in a valid marriage settlement (or mandated by law in special cases).
What becomes common	All property owned by either spouse at the time of marriage and acquired thereafter, except those excluded (gratuitous acquisitions with stipulation, personal/exclusive use, certain properties with prior descendants).	Fruits, income, and wages of separate properties, plus properties acquired by onerous title during marriage at the expense of the partnership.	None by operation of law; properties and incomes remain individually owned, unless spouses voluntarily co-own specific assets.
What remains exclusive	Limited list: gratuitous acquisitions (if stipulated), exclusively personal items, certain premarital properties with legitimate descendants	Properties brought into marriage and those acquired gratuitously remain exclusive, subject to rules on fruits and	All properties each spouse owns or acquires stay exclusive, including fruits and income, unless co-ownership

	from a former marriage.	improvements.	is deliberately created.
Management / administration	Generally joint administration; consent of both needed to dispose of community property, subject to exceptions.	Joint administration of conjugal properties; akin to a partnership in benefits and obligations.	Each spouse manages and disposes of his/her own property independently, subject to support and family obligations.
Upon dissolution (e.g., nullity, death)	After debts/obligations are paid, net community assets are divided equally (unless a different proportion was validly agreed upon).	After liquidation and reimbursements, net gains of the partnership are divided equally between spouses.	Each spouse simply receives his/her own remaining property after paying personal and family obligations.



BILL OF RIGHTS

Article 3 – Bill of Rights

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

Section 2. Right of the People against unlawful Searches and seizures

- Alias warrant
- No search warrant or warrant of arrest shall be issued except upon probable cause to be determined personally by the **judge** after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Section 3. Private communication is inviolable unless a court orders otherwise or public safety demands it by law.

- (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.
- (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.
- (3) **Two exceptions**
 - (a) **Court order** created by the judge with **probable cause**
 - (b) **Public safety/order**

Section 4. Freedom of Speech, Expression, or of the press, and assembly

Section 5. Freedom of Religion

- The free exercise and enjoyment of religious profession and worship, without discrimination or preference, **shall forever be allowed.**
- No religious test shall be required for the exercise of civil or political rights.

Section 6. Liberty of abode and Right to travel.

Section 7. The Right to Information on matters of public concern and access to official records.

- Example: the FOI Bill
- Exceptions: the right is limited by **national security, trade secrets, and individual privacy.**

Section 8. The right to form unions, associations, and/or societies.

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

- **Eminent domain** in the Philippines allows the government to take private property for public use, provided **just compensation** is paid and due process is followed.

Section 10. Non-impairment Clause

- No law impairing the obligation of contracts shall be passed.

Section 11. Free legal assistance must not be denied to any person due to poverty.

Section 12. Rights of Custodial Investigation

- In writing
- In front of a Counsel
- Protects your rights to custodial investigation, specifically the right to remain silent, have a lawyer, and be free from torture or coerced confession.
 - Fruit of the Poisonous Tree Doctrine — if the source of the evidence is *tainted* (illegal) then any secondary evidence derived from it is also **thrown out of the court.**
 - Except:
 - (1) The police would have found the evidence anyway through legal means.
 - (2) The same evidence was discovered separately by a source unrelated to the illegal act.
 - (3) Officers acted on a warrant they believed was valid, even if it was later found to be technically flawed.
 - (4) The link between the illegal act and the evidence is so weak or stretched that the taint has faded.

Section 13. Right to Post Bail for all persons except;

- (1) Non-bailable
 - (a) Reclusion perpetua — a prison sentence of 20 to 40 years, often mistakenly called life imprisonment, though it allows for legal pardon or parole after 30 years.
 - (b) Evidence of guilt is strong — the prosecution must prove a high probability that the accused committed the crime to justify denying bail.

Section 14. Presumption of Innocence/ Miranda Rights

- Guarantees the **right to due process** for the accused and the **presumption of innocence** until proven guilty.
 - (1) Due process — no person can be held to answer for a criminal offense without following the proper legal procedures.
 - (2) Presumption of innocence
 - (3) Right to be Heard
 - (4) Right to Counsel
 - (5) Right to be Informed
 - (6) Right to a Speedy, Impartial, and Public Trial
 - (7) Right to Confrontation — the right to meet the witnesses face-to-face to cross-examine them/
 - (8) Compulsory Process — the right to use the court's power to force witnesses to attend and produce evidence in their favor.
 - (9) Trial in Absentia — a trial can proceed even if the accused is absent.

Section 15. Writ of Habeas Corpus, to bring the body before the court

1. Rebellion
2. Invasion

Section 16. Speedy disposition of their causes

- RTC - 3 months
- MeTC - 6 months
- SC - 24 months

Section 17. Right Against Self-Incrimination

- The Right Against Self-Incrimination — *aka pleading the Fifth*, protects you from being forced by the government to testify against yourself or provide evidence that could lead to your own criminal conviction.

Section 18. Political Belief and Aspirations

- Prohibits involuntary servitude and detention solely due to political beliefs.

Section 19. Prohibits excessive fines and cruel punishment or unusual punishment, including the death penalty unless reinstated by Congress for heinous crimes.

- 1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall the death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.
- 2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

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

- Poll tax — is a fixed tax regardless of their income or resources, typically required as a condition for voting or residency.

Section 21. Right against double Jeopardy

- Prohibits punishment for the same offense.

Section 22. No ex post facto law or bill of attainder shall be enacted.

- Ex Post Facto Law — retroactive criminal laws that disadvantage the accused.
- Bill of Attainder — “*trial by legislature*” instead of judiciary.



DASCIL REFERENCE

Chapter 1: The Law

Definition

Law, in its general sense, is defined **as the science of moral laws based on the rational nature of man** governing his free activity for the realization of his individual and social ends, demandable and reciprocal.

Specifically, the law is defined as;

1. As a rule of conduct
2. Just
3. Obligatory
4. Promulgated by legitimate authority
5. Of common observance and benefit

Classification of Law under the Philippines

a. SUBSTANTIVE LAWS

- i. Those that grant or provide for rights and privileges to a person

b. REMEDIAL LAWS

- i. Those that provide for the manner of enforcing or protecting said substantive rights

c. PUBLIC LAWS

- i. Those that deal with subjects of public nature such as crimes

d. PRIVATE LAWS

- i. Those that govern private transactions between parties

e. CIVIL LAWS

- i. Deals with the person's relationship with the government

f. POLITICAL LAWS

- i. Deals with the person's relationship with the government

Prospectivity/Irretrospectivity and Retroactivity

a. PROSPECTIVITY or Irretrospectivity

- i. The law can only be applied after its effectivity date

b. RETROACTIVITY

- i. Refers to the application of a law even before its effectivity date except when it concerns vested rights.

PROSPECTIVE = look forward / applies only when the law is written or passed; violations to the laws, for example made before a law's effectivity can not be tried or be used to sanction a person in the present

RETROACTIVITY = looks backward / applies on the past actions before the law was even written or passed; your previous violations can be tried against you even in the present

Sources of Law

a. Statutes - passed by the legislative branch of government as enshrined under the constitution. They shall conform and be in harmony with the constitution.

- i. **Any law, rule or regulation that is in conflict with the Constitution is void.**

b. Judicial Decisions - judicial decisions interpreting the statutes are considered as part of the law of the land. Judicial

pronouncements that interpret the law as it is applied in a factual situation are considered to be part of the laws of the land.

- i. **STARE DECISIS** - once a case has been decided one way such decision stands until it is subsequently reversed or modified.

Roman Law

- a. **Roman Law** - all laws that prevailed among Roman citizens, without regard to their time origin
- b. **Justinian** - the Roman Emperor who initiated to have all Roman Laws codified into a unified whole denominated as the Code Justinian
 - i. **The Roman Empire** has conquered the world three times through;
 1. Military conquest
 2. Commerce
 3. Laws

Selected Legal Maxims

1. **Salus populi est suprema lex** - The welfare of the people is the supreme law
 - a. Ultimate goal of the law and the government should be the well-being of the public which can sometimes override individual interests
2. **Vox Populi, Vox Dei** - The voice of the people is the voice of God
 - a. Suggests that the collective will or opinion of the people carries great authority or truth

3. **Nullum Crimen, nulla poena sine lege** - There is no crime when there is no law punishing it
 - a. You can not be punished for an act that was not a crime at the time it was committed
4. **Potius sero quam nunquam** - It is better to be late than never
5. **Nemo est supra legis** - No one is above the law
 - a. Everyone, regardless of rank or power, is subject to the same legal standards. NO EXEMPTION.
6. **Ignorantiam legis neminem excusat** - Ignorance of the law excuses no one
 - a. You can not escape liability by simply claiming you did not know that the law you violated exists.
7. **Dura lex, sed lex** - The law is harsh but that is the law
 - a. It must be followed and enforced even when the results seems strict or unforgiving
8. **Damnum absque injuria** - Damage without any legal injury
 - a. A loss or harm that occurred but does not grant legal cause of action (i.e. losing business to a legitimate competitor.)
9. **Stare decisis et non quieta movere** - There must be no departure from settled precedents.
 - a. The courts should follow previous rulings to ensure consistency and stability in the law
10. **Ubi jus, ibi remedium** - Where there is a right, there is a remedy

- a. If the law recognizes a legal right, it must also provide a way to enforce that right or recover for its violation

11. Res judicata inter partes jus facit - An issue judicially settled between the parties is the law of that issue

- a. Final court decisions are binding on the parties

12. Noscitur a sociis - Meaning should be derived from accompanying words

- a. Ambiguous words shall be determined by the specifics of the words surrounding it

13. Ejusdem generis - An enumeration of a class of things includes all others of the same class

- a. General terms are limited to the same category as the specific list preceding them

14. Inclusio unius est exclusio alterius = Those that are included excludes those that are not mentioned

- a. Mentioning one thing, person or consequence constitutes that there is an intention to exclude those that are not mentioned

15. Lex prospicit non respicit - The law looks forward, not backwards

- a. Laws should operate prospectively to ensure that people are not penalized for acts that were not considered illegal during the time it was committed with no pertinent law present to punish a person

16. Pacta sunt servanda - Agreement between the parties must be complied in good faith

17. Res Ipsa Loquitur - The thing speaks for itself

- a. Doctrine for injury cases; the accident itself is considered sufficient evidence of negligence because it would not normally happen without such

18. Actus non facit reum nisi mens sit rea - An act does not necessarily make a person criminal unless he acted with a criminal mind

- a. No crime exists without both the physical and criminal intent

19. Patria potesta - Parental authority

20. Caveat emptor - Buyers beware

- a. The buyer is responsible for inspecting a purchase for defects

21. Res perit domino - The thing perishes with the owner

- a. The owner bears the financial loss if their property is destroyed

22. Jus possidendi - The right to possess

23. Jus abutendi - The right to abuse

24. Jus fruendi - The right to the fruits

25. Jus disponendi - The right to dispose

26. Jus vindicadi - The right to recover

27. Solutio indebiti - Unjust enrichment

28. Cessante ratione cessat ipsa lex - When the reason for the law ceases, the law ceases to exist

29. Nullum tempus occurrit regi - Time runs not against the sovereign

- a. The state is not restricted by time limits or statutes of limitations

30. Aedificum solo credit - The building follows the land

How a Bill becomes a Law

1. Filing of the bill

2. First Reading

- a. Process where the bill title is read in plenary session and is referred to its appropriate committee.

3. Second Reading

- a. The bill undergoes sponsorship, interpellation and amendments

- i. **Sponsorship** - essential and salient feature of the bill is presented

- ii. **Interpellation** - debates over the bill takes place where arguments of lawmakers are heard both from those who oppose and are in favor of the bill's passage.

- iii. **Amendments**

1. **Committee Amendments** - formulated by the committees that reported the bill

2. **Individual Amendments** - proposed by the individual legislators in plenary session. They may or may not be accepted by the sponsor.

4. Third Reading

- a. The approved bill from the second reading shall be printed and distributed to the members

- b. After three days, the bill will be read again on the third and final reading.

Parts of a Statute

1. Title

- a. Provides the general subject matter of the legislative measure and informs the public of its contents, purpose and subjects

2. Enacting Clause

- a. Declares the source of the promulgation

3. Body

- a. Contains the provisions of the law

4. Provisos

- a. Provides for a qualification to the operation of a particular provision of law

5. Repealing Clause

- a. A specific provision within a new law that explicitly cancels or terminates existing laws, or parts of them, that are inconsistent with the new legislation.

6. Separability Clause

- a. Provides that other portions of the statute not affected in the event of a part of a statute is unconstitutional and shall thereby continue to be in force and effect.

7. Date of Effectivity

- a. Provides the date when the law will take into effect. This depends on the nature and type of law enacted
 - i. **Simple Laws** - takes 15 days after its complete publication in

the Official Gazette or in a newspaper of general circulation (Article 2, Civil Code)

ii. Other Laws

1. Provides their own dates of effectivity

Chapter 3: Political Law

Political Law is defined as a branch of public law that deals with organization and operation of governmental organs of the State and defines the relations of the state with the inhabitants of its territory.

It mainly focuses on topic related to

- a. **Constitutional Law**
- b. **Law of Public Corporations**
- c. **Administrative Law (including law on public officers and election)**

Constitutional Law

Constitution

- Organic and fundamental law of a nation or state
- May be written or unwritten
- Established the character and conception of its government
- Lays the basic principles to which its internal life is conformed
- Organizes the government
- Regulates, distributes and limits the functions of the different departments of the government

- Prescribes the extent and manner of the existence of sovereign powers

Kinds of Constitution

1. Written Constitution
 - a. Whose provisions are reduced into a formal instrument and ratified by the body politic under certain formalities
2. Unwritten Constitution
 - a. Whose provisions are not reduced into writing and is not confined into a single document. Instead, tenets, principles and concepts are scattered in various statutes, norms, customs and judicial decisions.

The 1987 Philippine Constitution

The 1987 Philippine Constitution is the fundamental law of the land and was written by the Constitutional Commission. Under the principle of supremacy of the Constitution, all statutes, rules and regulations should be in conformity with the same.

- a. It was ratified in a plebiscite on February 2, 1987
- b. The Constitution should be considered as self-executing and mandatory
- c. It shall be prospective rather than retroactive

In interpreting the constitution, the following precepts should be adhered to;

- a. Whenever possible, the words used in the constitution must be given their ordinary

meaning EXCEPT with regard to technical terms (*verba legis*)

- b. Where there is ambiguity, the words of the Constitution should be interpreted in accord with the intent of the framers. (*ratio legis et anima*)
- c. The Constitution has to be interpreted as a whole (*ut magis valeat quam pereat*)

Amendment vs. Revision

- a. **Amendment** - alteration of one or a few specific provision
- b. **Revision** - more drastic change in the provisions of the entire constitution

Fundamental and Inherent Powers of the State

Inherent Powers are considered inherent because they are incidents of sovereignty and do not depend on any law nor the constitution to be recognized. They are supposed to co-exist with the state. The three powers are its innate attributes

a. Police Power

- i. Power of restraining and regulating liberty and use of property for the promotion of the general welfare (Law of overriding necessity)

b. Eminent Domain (Just Compensation)

- i. The power of the state to take private property for public use upon payment of just compensation

c. Taxation

- i. Power of the state to raise revenue to defray the necessary expenses of the Government

The Executive Department

The branch of government tasked with the duty of enforcing the law. It is the most active branch that directly deals with the affairs of the people.

The Constitution vests executive powers on the President and has control and supervision on all executive offices.

Eligibility for Elections of the President and Vice President

- a. A candidate for **President and Vice President** of the Philippines must be;
 - i. A natural-born citizen of the Philippines;
 - ii. A registered voter;
 - iii. Able to read and write;
 - iv. At least forty (40) years of age on the day of the election; and
 - v. A resident of the Philippines for at least ten (10) years immediately preceding such election.

Term Limits and Re-election

Feature	President	Vice-President
Term Length	6 years	6 years
Re-election	Ineligible for any re-election.	Allowed one consecutive re-election (Max 2 consecutive terms).
Succession Rule	Anyone who succeeds as	Voluntary renunciation of

	President and serves for more than 4 years is disqualified from running for the same office again.	office is not considered an interruption in the continuity of service.
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President's Immunity from Suit

The President may not be personally burdened with civil damages for the consequences of acts executed in the performance of his official duties.

Principle of Non-liability

The President is liable when he acts in a case so plainly outside his power and authority that he cannot be said to have exercised discretion in determining whether or not he had the right to react.

Should be noted likewise when the case filed against the President are criminal in character. Unlawful acts of public officials are not acts of the state and the officer who acts illegally is not acting as such but is a trespasser.

Executive vs. Administrative Power

a. Executive Power

- i. Power to enforce and administer the laws. Shall be vested in the President of the Philippines and expressed through the manifold offices

b. Administrative Power

- i. The President's control over such executive departments, bureaus and offices.

The Legislative Department

The legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum. (Section 1, Article VI). Legislative power is the power to propose, enact, amend and repeal statutes.

Congress

The **Philippine Congress** is composed of two chambers

- a. The Senate (Upper House)
 - i. Mandated with lawmaking given its constitutional role and duty to make laws that are derived from the people through popular representation. They shall be concerned with national sentiments.
 - ii. Shall be composed of 24 senators
- b. The House of Representatives (Lower House)
 - i. Generally is based on the concerns of their respective constituencies
 - ii. Shall be composed of more than two-hundred fifty (250) members which consists of the three groups;
 1. District representatives
 2. Party-list Representatives
 3. Sectoral Representatives

The Judiciary

The branch of government that is tasked to interpret and apply the law in actual controversies. It is the highest court of the land and its judicial pronouncements form parts of the laws of the land.

The "No-Inaction" Rule (Section 15)

The Constitution mandates specific periods for deciding cases to prevent judicial delay:

- a. **Supreme Court:** Must decide cases within 24 months from date of submission.
- b. **Lower Collegiate Courts:** Within 12 months.
- c. **Other Lower Courts:** Within 3 months.

Features of Judicial Independence

Feature	Description
Security of Tenure	Members of the Supreme Court and judges of lower courts hold office during good behavior until they reach the age of seventy (70) years or become incapacitated.
Fiscal Autonomy	The Judiciary enjoys fiscal autonomy. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released.
Rule-Making Power	The Supreme Court has the power to promulgate

	rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts.
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Judicial Power and Judicial Review

- a. Judicial Power
 - i. Duty of courts of justice to settle actual controversies involving rights which are legally demandable and enforceable
- b. Judicial Review
 - i. Power of the courts to test the validity of executive and legislative acts in light of their conformity with the constitution.

Law on Public Corporation

A public corporation is one created by the State either by general or special act for purposes of administration of local government or rendering service in the public interest.

Public corporations or local government units (LGUs) may be created, divided, merged, abolished or its boundaries substantially altered under the following circumstances:

- a. Law enacted by Congress in case of province, city, municipality or any other political subdivision; and
- b. By an ordinance passed by the Sanggunian Panlala-wigang or Sangguniang Panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed

in Section 6 of Republic Act 7160, "Local Government Code of 1991."

Distinctions between Public and Private Corporation

PUBLIC CORPORATION	PRIVATE CORPORATION
As to purpose	
Administration of local government	Private purpose
Who creates	
The State by general or special act	By incorporations with recognition of the State
How created	
By legislation	By agreement of members

Nature of Local Government Units

Local government units or municipal corporations are referred to as territorial *and political subdivisions* (Article X, Section 1). They can only exercise its powers within its territorial boundary or jurisdiction and its powers are within the walls.

The four elements of an LGU are;

1. Legal creation
2. Corporate name
3. Inhabitants
4. Place or territory

LGUs can exercise its powers outside the subdivision on three occasions namely;

1. Protection of water supply
2. Prevention of nuisance

3. Police purposes

Dual Characteristics of a Public Corporation

- a. Public or governmental - acts as an agent of the State for the government of the territory and its inhabitants.
- b. Private or proprietary - acts as an agent of the community in the administration of local affairs. It acts as a separate entity for its own purposes and not as a subdivision of the State.

Administrative Law

A branch of public law that governs the Executive branch when it performs quasi-legislative (rule-making) and quasi-judicial (deciding cases) functions to promote public welfare. It balances the government's power to regulate professions, health, and safety with the rights of individuals. Beyond external regulation, it also dictates the internal organization of agencies, defining the qualifications, duties, and grounds for the removal of public officers.

Quasi-Judicial and Quasi-Legislative Power

- a. Quasi-Judicial Power
 - i. Refers to the power of an administrative agency to resolve conflicts involving factual issues. Shall always be in harmony with the legislative intent of policy the law was created for.
- b. Quasi-Legislative Power
 - i. The power granted to administrative agencies to promulgate rules and

regulations relative to law and is also referred to as the rule-making power and authority of an administrative body.

Election Law

Principally govern the exercise of the right to suffrage as well as prescribing the qualifications for an elective office.

International Law

The system of law, which governs relations between states. law which regulates the intercourse of nations. The customary law, which determines the rights and regulates the intercourse of independent nations in peace and war.

Mostly composed of international agreements and treaties, some practices are rooted in tradition, customs and generally accepted principles of international law.

Pacta Sunt Servanda

Refers to the obligation to fulfill in good faith a treaty or international agreement.

This requires that the stipulations contained therein be observed in their spirit as well as in accordance to their letter and that what has been promised be performed without evasion, or subterfuge, honestly and to the best of the ability of the party which made the promise.

Labor Laws (PPT-based)

Labor

- Simply means physical toil
- Productive work especially physical work done for wages
- May refer to a social class comprising those who do manual labor or work for wages

Labor Standards

Refers to the minimum requirements prescribed by existing laws, rules and regulations relating to wages, hours of work, cost of living allowance and other monetary and welfare benefits, including occupational, safety and health standards.

They are covered by Books I to IV of the Labor Code

Labor Relations Laws

Are laws, rules and regulations which govern the relationship between employees and their employers, promote the right of the employees to self-organization and collective bargaining, strikes and picketing, penalize unfair labor practice, and provide modes for the settlement of labor disputes such as conciliation, mediation, grievance machinery, voluntary arbitration and compulsory arbitration.

It is covered by Books V – VII of the Labor Code.

Social Legislations and Labor Laws

- a. Social legislations are laws, rules, and regulations that promote the welfare of all sectors of society.
- b. Labor laws directly affect employment, - employer - employee relationship.
 - i. All labor laws are social legislations
 - ii. But not all social legislations are labor laws

State Principles

Article II, Section 9 (1987 Constitution)

“The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.”

Article II, Section 10 (1987 Constitution)

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

Article II, Section 18 (1987 Constitution)

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

Police Power

As an inherent attribute of sovereignty which virtually “extends to all public needs” this “least limitable” of governmental powers grants a wide panoply of instruments through which the state, as *parens*

patriae (parent of the country) gives effect to a host of its regulatory powers.

Relations between capital and labor (PBOAP vs. DOLE)

- The relations between capital and labor are not merely contractual as provided in Article 1700 of the Civil Code
- By statutory declaration, labor contracts are impressed with public interest and therefore must yield to the common good.
- Labor contracts are subject to special laws on wages, working conditions, hours of labor and similar subjects
- Labor contracts are subject to the police power of the State

Article 128 - Visitorial and Enforcement Power

- The Secretary of Labor and Employment or his duly authorized representatives, including labor regulation officers,
- Shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein,
- and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor , wage order or rules and regulations Issued pursuant thereto.

Power to Assume Jurisdiction (Article 278, g)

- When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may
 - assume jurisdiction over the dispute and decide it or
 - certify the same to the Commission for compulsory arbitration.
- Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order.

Social Justice

- Social justice is neither communism, nor despotism, nor atomism, nor anarchy," but the humanization of laws and the equalization of social and economic force by the State so that justice in its rational and objectively secular conception may at least be approximated.
- Based on the time-honored principle of *salus populi est suprema lex*. (Calalang vs. Williams)

Social Justice for the deserving

- The policy of social justice is not intended to countenance wrongdoing simply because it is committed by the underprivileged.
- Social justice cannot be permitted to be a refuge of scoundrels any more than equity can be an impediment to the punishment of the guilty.

- Those who invoke social hands are clan and their motives blameless and not simply because they happen to be poor.

Construction in favor of Labor (Article 4)

All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations shall be resolved in favor of labor

Only a case of doubt

- The Labor Code declares that all doubts in the implementation and interpretation of the provisions of the Code, including its implementing rules and regulations, shall be resolved in favor of labor.
- This concept, however, applies only in case of doubt and should not apply where the pertinent provisions of the Labor Code leave no room for doubt either in their interpretation or application.

Article XIII, Section 3

The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

Protection and Employment

- a. Full Protection
 - i. Those who have less privilege in life shall have more privilege in law

b. Full Employment

- i. Those who want to work at the prevailing rates of pay are able to find work without undue difficulty

c. Unemployment

- i. Involuntary idleness on the part of an employee who is able and willing to work but could hardly find one

d. Underemployment

- i. A person is presently employed in work experience that does not make use of his previous training, education and acquired expertise.

- It shall guarantee the rights of all workers to self organization, collective bargaining and negotiations, and peaceful concerted activities including the right to strike in accordance with law.
- They shall be entitled to security of tenure, humane conditions of work, and a living wage.
- They shall also participate in the policy and decision making processes affecting their rights and benefits as may be provided by law
- The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace
- The State shall regulate the relations between workers and employers, recognizing the right to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

Article 1700 - Nature of Capital-Labor Relations

Contractual relations between capital and labor are not merely contractual; they are impressed with public interest and must consider the common good and justice and equity.

Article 1701 - No oppression by either side

Neither capital nor labor shall act oppressively against the other, or impair the interest or convenience of the public.

Article 1702 - In case of doubt, favor labor

In case of doubt, all labor legislation and all labor contracts shall be construed in favor of the safety and decent living for the laborer.

Article 1703 - No involuntary servitude

No contract which practically amounts to involuntary servitude, under any guise whatsoever, shall be valid.

Employee-Employer Relationship

An employer–employee relationship exists when one party hires another to perform work, pays wages for that work, has the power to dismiss the worker, and has the right to control not just the result but also the means and methods by which the work is done (the “four-fold test,” with control as the most important element).

Four elements of an employer-employee relationship;

- a. Selection and engagement of the employee (the employer hires the worker).
- b. Payment of wages or salary.
- c. Power of dismissal (the employer can terminate the worker).
- d. Power of control over how the work is done, not just the final result (most important element).

Labor Standards v. Labor Relations v. Social Legislation

- a. Labor Standards
 - i. Prescribe the terms and conditions of employment as affecting wages or monetary benefits, hours of work, cost of living allowances, occupational health, safety and welfare of the workers
- b. Labor Relations
 - i. Used to denote all matters arising out of employer-employee relationship involving concerted action on the part of the workers which is usually related with collective bargaining and negotiation process
- c. Social Legislation
 - i. Governs the employer-employee while the employee is not at work due to hazards arising from employment

Security of Tenure (Article 294, Labor Code)

The right of every employee not to be dismissed without just or authorized cause and in the absence of due process

Classification of Employees

- A. Special Workers - who have unique working conditions and different sets of labor standard applications.
 - a. Apprentices - Persons covered by a written apprenticeship agreement with an employer. The program involves practical training on the job supplemented by related theoretical instruction for highly skilled trades. They should be;
 - i. At least 14 years old
 - ii. Possesses vocational aptitude and capacity
 - iii. Possesses the ability to comprehend and follow oral and written instructions
 - b. Learners - Persons hired as trainees in semi-skilled and other industrial occupations which are non-apprenticeable and which may be learned through practical training on the job in a relatively short period of time.
 - c. Handicapped workers - Those whose earning capacity is impaired by age, physical or mental deficiency, or injury. They are entitled to the same rights as

able-bodied workers, provided they can perform the job.

- B. Casual Employees - Employees engaged to perform work that is not usually necessary or desirable in the usual business of the employer, and which is not seasonal or for a specific project. If they render at least one year of service, they are considered regular for that specific activity.
- C. Special Projects - Those whose employment has been fixed for a specific project or undertaking, the completion or termination of which has been determined at the time of engagement.
- D. Seasonal Employees - Workers called to perform work that is seasonal in nature and whose employment is only for the duration of the season (e.g., harvest season or holiday rushes).
- E. Probationary Employees - Workers placed on a trial period (usually not exceeding six months) to determine if they qualify for regular employment based on reasonable standards made known to them at the time of engagement.
- F. Regular Employees - Those engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer. They enjoy full security of tenure.
- G. Managerial Employees - Those vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay off, recall, discharge, assign, or discipline employees.

Control Test

Under the control test, an employer-employee relationship exists where the person for whom the services are performed reserves the right to control not only the end achieved, but also the manner and means to be used in reaching that end.

Gabriel vs. Bilon (February 7, 2007)

The relationship between jeepney owners/operators and jeepney drivers under the boundary system is that of employer-employee and not lessor-lessee because in the lease of chattels, the lessor loses complete control over the chattel leased although the lessee cannot be reckless in the use thereof, otherwise he would be responsible for the damages to the lessor.

In case of jeepney owners/operators and jeepney drivers, the former exercises supervision and control over the latter.

Auto Bus Transport Systems, Inc vs. Bautista

It is necessary to stress that the definition of a "field personnel" is not merely concerned with the location where the employee regularly performs his duties but also with the fact that the employee's performance is unsupervised by the employer

Field personnel are those who regularly perform their duties away from the principal place of business of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty.

Illegal Dismissal

An action for illegal dismissal or when one is arbitrarily and unjustly deprived of his job or means of livelihood is essentially a complaint for “injury to rights.”

Termination of employment contract

a. Just Causes

- i. Serious misconduct or willful disobedience by the employee of the lawful order of the employer or the representative in connection with his work
- ii. Gross habitual neglect by the employee of its duties
- iii. Fraud or willful breach by the employee of the trust reposed in him by the his employer or duly authorized representative
- iv. Commission of a crime or offense against a person of his employer or any immediate member of his family and his duly authorized representative
- v. Other causes analogous to the foregoing

b. Authorized Causes

- i. Redundancy—exists when the services of an employee are in excess of what is reasonably demanded by actual requirements of the enterprise.
- ii. Retrenchment- reductions in the workforce to forestall business losses or stop the hemorrhaging of capital
- iii. Installation of labor saving device

- iv. Closure or cessation of operation of the establishment or undertaking due to financial losses

Special Labor Laws

Article XIII, Sec. 14

The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

Cadiz v. Brent Hospital

With particular regard to women, **Republic Act No. 9710 or the Magna Carta of Women** protects women against discrimination in all matters relating to marriage and family relations, including the right to freely choose a spouse and to enter into marriage only with their free and full consent.

Sexual Harassment

Republic Act No. 7877 The Anti Sexual Harassment Law (February 14, 1995)

- Prohibits all forms of sexual harassment in the
- Workplace Education or Training environment.
- Sexual harassment in the work place is committed when the sexual favor is made as a condition for employment, promotion, continued employment and other privileges.

Sexual Harassment is Abuse of Power

In other words, what the law aims to punish is the undue exercise of power and authority manifested through sexually charged conduct or one filled with sexual undertones.

Demands for Sexual Favor

The demand, request, or requirement of a sexual favor need not be articulated in a categorical oral or written statement and instead may already be sufficiently discerned from the offender's acts.

Escandor vs People

Sexual harassment engenders three-fold liability:

- criminal, to address the wrong committed against society itself;
- civil, to address the private wrong against the offended party;
- administrative, to protect the public service.

Toliongco vs. Court of Appeals

- To restate, sexual harassment can happen to anyone and everyone.
- Our society has often depicted women as being the weaker sex, and the only victims of sexual harassment. It is high-time that this notion is corrected.
- To consider women as the weaker sex is discriminatory.
- To think that only women can be victims of sexual harassment is discriminatory against men who have suffered the same plight; men

who have been victimized by sexual predators.

Safe Spaces Act - Republic Act 11313

A Philippine law that defines and penalizes gender-based sexual harassment in public spaces, online, workplaces, and educational institutions.

It expands the scope of previous laws (like RA 7877) by criminalizing harassment between peers and by strangers, covering acts such as catcalling, wolf-whistling, stalking, and unconsented uploading of sexual photos or videos.

Duties of Employers (Sec 17)

Employers and other persons of authority, influence or moral ascendancy in a workplace shall have the duty to prevent, deter, or punish the performance of acts of gender-based sexual harassment in the workplace.

Liabilities of Employers

Employers may be held liable for non-implementation of duties under section 17

Types of Sexual Harassment

- a. Physical sexual harassment
 - i. is the most obvious and well-known form of sexual harassment. It is exercised through unwelcome touching such as rubbing up against a person or physically interfering with another's

movements or preventing another from completing their work.

b. Verbal Sexual Harassment

- i. Remarks or comments that are disrespectful insults or slurs may also be considered as verbal harassment towards an individual. Under FEHA regulations, an employee may identify their experience with verbal comments as “harassment” even through nicknames, labeling, or titles.

c. Visual Sexual Harassment

- i. At first glance “visual harassment” by definition may seem obvious in that one individual is exposing themselves to another individual who does not appreciate the exposure. However, visual harassment comes in other forms that are not as blatant as perhaps a fellow employee exposing themselves. Visual harassment can be demonstrated through cartoons or drawings considered offensive and/ or insulting to the victim.

Republic Act No. 7877

The Anti-Sexual Harassment Act of 1995 (RA 7877), is the governing law for work, education or training-related sexual harassment. RA 7877 states that “work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or

education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said act.

It must be emphasized that the demand of a sexual favor need not be explicit or stated.

Specifically, in a work-related or employment environment, sexual harassment is committed when:

(1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms of conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;

(2) The above acts would impair the employee’s rights or privileges under existing labor laws; or

(3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

On the other hand, in an education or training environment, sexual harassment is committed:

(1) Against one who is under the care, custody or supervision of the offender;

(2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;

(3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or consideration; or

(4) When sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

Gender-based Streets and Public Spaces Sexual Harassment

GBSH in street and public spaces is defined as acts which are committed through any unwanted and uninvited sexual actions or remarks against any person regardless of the motive for committing such action or remarks.