

# The Parameters of Power: An Analysis of the Constitutional Ban Against the Re-Election of Presidents

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## I. INTRODUCTION

20 years from the ratification of the 1987 Constitution, all the Presidents who have served under this Constitution<sup>1</sup> remain alive and may possibly run for the position of President once again. The Philippines being a country with a very dynamic political environment, it is not surprising, that over the past 20 years, the possibility of a former President running for office again

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1. The Presidents who have served under the 1987 Constitution are Corazon Aquino, Fidel Ramos, Joseph Estrada, and Gloria Macapagal-Arroyo.

after a break of one term, as mandated by the Constitution, has been queried upon and debated on incessantly and with much gusto.

The first President under this Constitution was Corazon Aquino, wife of Philippine national hero and former Senator Benigno Aquino. Corazon Aquino was placed in power in 1986 through a civilian revolution called the "People Power Revolution." It was while she served as President that the 1987 Constitution was commissioned and ratified. Corazon Aquino was succeeded in 1992 by Fidel Ramos, a former armed forces chief who led the People Power Revolution. Ramos was succeeded in 1998 by Joseph Estrada, a former actor and mayor, although Estrada was not part of the administration ticket. A populist leader who irked the elite, Estrada was ousted from office in 2001, and was succeeded by his Vice President Gloria M. Arroyo, daughter of former President Diosdado Macapagal.

When rumors started flying that President Aquino intended to once again run for the presidency upon the end of her term in 1992, oppositionists and legal experts were quick to shut the idea down. Justice Angelina Sandoval-Gutierrez recalls,

[t]ime did not alter Father Bernas'<sup>2</sup> cautious attitude to any form of executive aggrandizement. His 1991 article 'May President (Corazon) Aquino Run for Re-Election in 1992?' immediately put off any budding campaign to perpetuate her in power. With his flair for historical analysis, he came up with the logical theory that with the ratification of the 1987 Constitution President Aquino transformed from a revolutionary president to an elected one, thus, placing her within the operation of the re-election ban.<sup>3</sup>

Fears of a term extension were once again felt as the end of President Ramos' term approached. Asiaweek documented such fears on the occasion of the anniversary of the declaration of Martial Law in 1997:

It was an appropriate, if curious, confluence of events. Sunday, Sept. 21, was the 25th anniversary of the declaration of martial law by Ferdinand Marcos, which ushered in 14 years of dictatorship. It was also the day when huge crowds took to the streets all over the Philippines to protest against the controversial constitutional amendment proposals that would allow President Fidel Ramos to serve beyond his mandated single six-year term. On that day, the country's past and future seemed to meld together, as the demonstrators remembered the dark old days and vowed that no one would be allowed to perpetuate himself in power again.

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2. Joaquin G. Bernas, S.J., is a leading constitutionalist, Dean Emeritus of the Ateneo de Manila University School of Law, and currently an opinion writer of the *Philippine Daily Inquirer*.
  3. Justice Angelina Sandoval-Gutierrez, Tribute, *The Philippine Demosthenes*, 49 ATENEO L.J. 399 (2004).

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But the message was clear: no to Cha-Cha (the rhythmic short form Filipinos have adopted for “charter change”). Those who had gathered would tolerate neither the lifting of term limits nor the possibility of creating another dictator.

Speaking to the crowds at Luneta were two potent symbols of the anti-Marcos struggle: Manila archbishop Cardinal Jaime Sin and former president Corazon Aquino. “We reject an immoral change of charter at this time,” proclaimed Sin. “We reject any and all martial and military options to perpetuate any politician in power.” Aquino was equally eloquent and forceful. “No way, and never again” was her message to those “who want to stay in power, by martial law or charter change.” She reminded Ramos that “power intoxicates.”

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Keenly aware of the local sentiment, Ramos made a pre-emptive strike a day before the Luneta rally. Addressing a crowd of 50,000 in Davao City in southern Mindanao region, he maintained: “I will not run for re-election. Period. Period. Period.” He also denied any dictatorial ambitions on his part: “I will not proclaim martial law, nor order the Armed Forces of the Philippines and the Philippine National Police to undertake any operations that may be misconstrued as actions leading to martial law.”<sup>4</sup>

President Estrada’s term was cut short by an ouster dubbed by the press as “Edsa Dos” or “People Power II,” allowing his Vice-President, Gloria Macapagal-Arroyo, to assume the presidency, albeit under controversy.<sup>5</sup> The BBC News Channel in 2001 documented that she had, in fact, announced that she would not seek the presidency upon her completion of Estrada’s term: “After less than two years in the job, President Gloria Arroyo appears to have lost heart. Describing the political atmosphere in the Philippines as

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4. Sangwon Suh & Antonio Lopez, Showdown in Manila, *available at* [www-cgi.cnn.com/ASIANOW/asiaweek/97/1003/nat1.html](http://www-cgi.cnn.com/ASIANOW/asiaweek/97/1003/nat1.html) (last accessed July 4, 2008).

5. *See Estrada v. Arroyo*, 353 SCRA 452 (2001). In this case, the Supreme Court created the concept of “constructive resignation” to pursue the argument that Estrada had withdrawn from the presidency, thus legitimizing the assumption into power of Arroyo. Such term is not found in the words of the 1987 Constitution, which gives only four instances in Article VII, the chapter on the Executive Department, when the Vice President may succeed and become President, “constructive resignation” not being among any of these four instances. The provision states: “In case of death, permanent disability, removal from office, or resignation of the President, the Vice-President shall become the President to serve the unexpired term.”

Estrada maintains that he never resigned from the presidency and that Arroyo should have only been accommodated as *Acting* President.

‘poisonous,’ she announced she would not run for president again in the elections scheduled for 2004.”<sup>6</sup>

Nevertheless, Arroyo did seek to prolong her stay in office, and was proclaimed President once again in 2004, despite allegations of massive poll cheating in what was dubbed by the press as the “Hello, Garci” scandal.<sup>7</sup> By the end of her term in 2010, Arroyo would have held the presidency for a total of nine years.

Anticipating the 2010 presidential elections, the issue of whether or not a President may seek re-election is under scrutiny once again. It has become an even hotter topic because Estrada, who was incarcerated for six years while under trial for the crime of plunder in the Sandiganbayan (the country’s anti-graft court), has been pardoned by President Arroyo and released. The year, therefore, began with speculations as to who might be presidential contenders in 2010. The Philippine Star observed: “A free-for-all is shaping up ahead of the 2010 presidential election as Vice President Noli de Castro declared his intention to join the fray and square off with heavyweight presidential hopefuls including former President Joseph Estrada and Fidel Ramos.”<sup>8</sup>

Amidst all the political excitement, the confusion as to the issue of the possibility of a re-election remains. Election lawyer Romulo Macalintal believes that Corazon Aquino, but not Ramos or Estrada, can run again for the presidency, arguing, “[f]ormer presidents Joseph Estrada and Fidel Ramos and President Arroyo are not eligible to run again because they were elected. Only President Cory Aquino<sup>9</sup> may run.”<sup>10</sup> Meanwhile, Congressman Rufus Rodriguez, a former Dean of the school of law of the San Sebastian College, believes that only Arroyo is ineligible to run, stating, “[t]he Constitution prohibits the president from running for reelection. This

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6. BBC, Profile: Gloria Arroyo, *available at* <http://news.bbc.co.uk/1/hi/world/asia-pacific/1057517.stm> (last accessed July 4, 2008).

7. See Philippine Center for Investigative Journalism, Transcript of Three-Hour Tape, *available at* <http://www.pcij.org/blog/wp-docs/complete-transcript.pdf> (last accessed July 6, 2008). A tape of Arroyo’s voice in a phone conversation with Commission on Elections Commissioner Virgilio Garcillano was leaked and released by the press, in which Arroyo asked Garcillano if he could secure for her an additional one million votes.

8. Pia Lee-Brago, *Noli on 2010: Count me in*, PHIL. STAR, Jan. 4, 2008, at 1.

9. It is argued that former President Corazon Aquino was placed in office not by virtue of the snap elections against former President Marcos, but by virtue of the EDSA People Power Revolution of 1986, thereby making her a “revolutionary” President and not an elected one.

10. Lee-Brago, *supra* note 8, at 6.

prohibition applies to an incumbent. Re-election means that the one seeking it is (actually) in office.”<sup>11</sup>

It appears that legal analysts with political affiliations argue the possibilities in favor of their political favorites. Meanwhile, Supreme Court justices differ as to the interpretation of the wording of the Constitution. Therefore this Article seeks to gain an understanding of the intent of the framers of the 1987 Constitution in laying down Article VII, Section 4 of the Constitution, which states “The President ... shall not be eligible for any re-election. No person who has succeeded as President and has served as such for more than four years shall be qualified for election to the same office at any time.”<sup>12</sup>

The provision may possibly be interpreted either to allow a President to run again for another term after a break of six years from office or to have limited the opportunities to serve as President to only one.

## II. CONFUSION IN THE WORDING OF THE 1987 CONSTITUTION AND CONFLICTING VIEWS OF LEGAL EXPERTS

The confusion lies in the wording of the present Constitution. There are different interpretations by various legal experts on the meaning of the words “President,” “any,” and “re-election.” Some experts argue that the constitutional limitation only applies to an incumbent President. Others say that the ban applies to anyone who has served as president. There are also those who assert that if a President was able to serve for a period of less than four years, as in the case of Estrada, he too may still qualify to run for President again.

The following opinions of various legal writers have been published in leading nationwide newspaper:

### *A. Joaquin Bernas, S.J.*

In an article that made the front page of the *Philippine Daily Inquirer*, Bernas insisted that no President, whether incumbent or past, may run for the presidency a second time.

Two arguments are being used to justify Estrada’s running again, even if neither argument is persuasive. The first says that he may run again because he never finished his term. Unfortunately there is nothing in the text of the Constitution which can ground the conclusion that failure to serve for six years is an exception to the prohibition of reelection. Actually, I know of no one who takes this argument seriously.

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11. Jose Rodel Clapano, *Erap can run?*, PHIL. STAR, Jan. 7, 2008.

12. PHIL. CONST. art. VII, § 4, ¶ 1.

The delegates to the 1986 Constitutional Commission did debate on how often a person may be president. Records show that the original draft which came from the committee proposed that “He shall be disqualified from immediate reelection.” During the deliberations on this draft, three alternatives vied for approval: no immediate reelection, absolutely no second election whatsoever, one immediate reelection.

*The ‘absolutists’ won*

The “absolutists” won the vote and the final text came to read as it does now: “The President shall not be eligible for any reelection.” The word “any” reflects the sentiment of the “absolutists.”

The word “immediate” was deliberately deleted.<sup>13</sup>

He also defined “re-election” as vying for office a second time around, whether immediately after one’s term of office or at any period thereafter.

The second argument being raised is that “reelection” means election immediately following the end of a prior term, and that in the case of Estrada, by analogy perhaps with the Hagedorn case in Puerto Princesa (which is really irrelevant), he will be running after a hiatus of seven or so years and therefore not immediately.

This second argument appeals to the constitutional construction principle that a word, unless it is a technical term, must be understood in the ordinary meaning it has for the man on the street.

Unfortunately, the ordinary meaning of “reelection” can be either election immediately after a term or election even after some interruption. Legislators are aware of the possible ambiguity of the word “reelection” and so when they mean election immediately after a term they deliberately add the adjective “immediate.” You will see this adjective in the case of the law on reelection of senators, representatives and local elective officials.

In the case of the President, however, the law simply says “The President shall not be eligible for any reelection.”

*What reelection means*

So, what does “reelection” in the case of a President mean? When in doubt about the meaning of a word, an accepted principle says that one should look at how the drafters of the law understood the word. We must assume that this is also what the majority of the voters who ratified the Constitution meant. After all, we cannot now poll those who voted 22 years ago to ask them how they understood the word!<sup>14</sup>

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13. Joaquin G. Bernas, S.J., *The last word: Estrada cannot run for president*, PHIL. DAILY INQUIRER, Jan. 4, 2008.

14. *Id.*

*B. Christian Monsod*<sup>15</sup>

In an interview with the Philippine Daily Inquirer, Monsod agreed with the interpretation of Bernas, saying that the constitutional provision applies to all living presidents:

“It’s an old argument that one has to be a sitting president for him to be barred from reelection. That’s not the interpretation of the constitutional provision,” said Christian Monsod . . .

“The Constitution provides that any reelection is prohibited. Any reelection. It doesn’t have to be that he is seeking reelection to succeed himself (for him to be banned),” Monsod told the Inquirer when sought for comment on the issue.

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Monsod said the provision covered all living former presidents.

“It applies to all of them,” he said.

Monsod said that under the Charter, Aquino was likewise an elected President and thus may no longer run for any reelection as president.

“It’s in the transitory provisions (of the Constitution),” Monsod said.

Monsod said that while Aquino was elected under the 1972 Constitution, she also took an oath as Chief Executive under the present Charter.<sup>16</sup>

*C. Romulo Macalintal*<sup>17</sup>

Atty. Romulo Macalintal, a known lawyer of the Administration, believes that Presidents Ramos, Estrada, and Arroyo are prohibited from seeking reelection but not former President Corazon Aquino. His interview with both the Philippine Daily Inquirer and the Philippine Star reflect this argument:

Lawyer Romulo Macalintal, an election lawyer of Ms. Arroyo’s, said that Ms Arroyo, Ramos and Estrada were all barred from seeking reelection.

He, however, believes Aquino could still run again, having been catapulted to power through Edsa I.

“Estrada, Ramos and President Arroyo are not eligible to run again,” Macalintal said in a text message.

“The prohibition on reelection applies to elected presidents and not to one who was installed, like Cory.”

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15. Christian Monsod was Chairman of the Commission on Elections and also a member of the 1986 Constitutional Commission.

16. Norman Bordadora, *Estrada can't run, says a writer of 1987 Charter*, PHIL. DAILY INQUIRER, Jan. 4, 2008.

17. Romulo Macalintal is a Philippine election lawyer. He was counsel for the administration party in the 2007 elections.

Macalintal also said the 1987 Constitution “should not be applied retroactively.”<sup>18</sup>

*D. Rufus Rodriguez*<sup>19</sup>

Congressman Rufus Rodriguez, a former spokesperson of former President Estrada, believes that the ousted President may seek the presidency again. Contrary to the opinion of Bernas, Rodriguez believes that the word “re-election” only refers to the incumbent President.

“The Constitution prohibits the president from running for reelection. This prohibition applies to an incumbent. Reelection means that the one seeking it is (actually) in office,” Rufus opined.

He pointed out that if the case is elevated to the Supreme Court, the High Tribunal would not inquire into the intent of the framers of the Constitution ‘because the language of the prohibition is clear and there is no room for any other interpretation.’

To this, Rodriguez countered, “For instance, if Lito Atienza were to run again for Manila mayor, he will be seeking election and not reelection, because he is not an incumbent.”<sup>20</sup>

*E. Raul Goco*

Former Solicitor General Raul Goco believed that the term “President” only applies to those who have served a full six-year term:

Deposed leader Joseph Estrada can still run as president in the 2010 elections because he did not finish his six-year term, former Solicitor General Raul Goco said Thursday. Goco said that although the Constitution bars presidents who had served full six-year term in seeking re-election, he is unsure whether it would apply to Estrada. The former solicitor general spoke during the question and answer portion of the regular meeting of the Manila Rotary Club at the Manila Polo Club in Makati City, where Estrada was guest honor. Estrada was forced to leave Malacañang on January 20, 2001 following a popular people revolt over allegations he committed massive corruption during his administration. At the Rotary Club meeting, Goco said that Estrada can still run, citing the former leader’s failure to finish his term. “I submit that he can still run

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18. Bordadora, *supra* note 16.

19. Rufus Rodriguez is a member of the House of Representatives for the second district of Cagayan de Oro.

20. Jose Rodel Clapano, *Erap can run? Binay ready for 2010; Noli open as opposition’s bet*, PHIL. STAR, Jan. 7, 2008.



because that very important issue that he was not able to complete his term must be imposed,” Goco said.<sup>21</sup>

*F. Andres Narvasa*<sup>22</sup>

Former Chief Justice Andres Narvasa also holds the opinion that Estrada is eligible for re-election. In an interview with the Manila Times, he stated that there is no ban against Estrada in seeking the presidency anew.

Narvasa said there was no prohibition for the former president to run again because his conviction for plunder is “not a ground for disqualification.”

Also not an issue, he added, is a provision in the 1987 Constitution that says, “No President shall be eligible to run in any reelection.”

Narvasa said Estrada can run again for there is no legal ban against him from seeking the presidency as it will be a new term for him.<sup>23</sup>

### III. THE ROLE OF THE PRESIDENT IN CONSTITUTIONAL HISTORY

*A. Prior to the 1973 Constitution*

Philippine history shows that even before the Philippines became a republic, revolutionary governments adopted governmental structures with a President at its helm. The very first constitution drafted by Filipinos, created at Biak-na-Bato, called for leadership by a President. The provisions of this constitution concerning the President and executive power state:

Art. I. The supreme government of the Republic shall be vested in a Supreme Council, composed of a President, a Vice-President and four Secretaries, for the conduct of Foreign Relations, of War, of the Interior, and of the Treasury.

Art. X. The executive power shall be vested in the President, or in his absence in the Vice-President, and shall have these powers: to approve and promulgate the acts of the Supreme Council of the Government; to provide for their execution within the period of nine days; to issue decrees, rules or instructions for their execution; to receive ambassadors and to execute treaties.<sup>24</sup>

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21. GMA News.TV, Ex-SolGen Goco says Estrada can still run for president, Feb. 21, 2008, available at <http://www.gmanews.tv/story/81628/Ex-SolGen-Goco-says-Estrada-can-still-run-for-president> (last accessed July 4, 2008).

22. Former Chief Justice Andres Narvasa was the Chief Justice of the Philippine Supreme Court from 1991 to 1998. Narvasa was also a lawyer of Estrada during the latter's plunder trial at the Sandiganbayan Special Division.

23. Jomar Canlas & Sammy Martin, *Ex-Chief Justice says Estrada can run in 2010*, MANILA TIMES, Jan. 9, 2008.

24. 1897 BIAK-NA-BATO CONST. arts. I & X (superseded 1899).

By virtue of this document, Emilio Aguinaldo was installed constitutionally as President or *Supremo* of a Supreme Council which represented the government of the Republic of the Philippines, and he served from 2 November 1897 to 16 December 1897.<sup>25</sup>

It was specifically stated in that constitution, however, that as it pertained to a revolutionary government, the Constitution would only be in effect for two years from the date of its promulgation.<sup>26</sup> Thus, the issue of term limits was never discussed. Nevertheless, Aguinaldo was able to hold on to the post of President even during the transitional government between the Spanish rule and the First Republic, when the seat of government was moved to Kawit, Cavite in 1898. This was also true during the revolutionary government in 1898 to 1899, (when the seat of government was moved to Malolos, Bulacan), and even after the Malolos Convention, which established a unitary, semi-presidential form of government. While recognizing that executive power is vested in the President, the Malolos Constitution set term limits for the first time:<sup>27</sup>

Art. 56. The Executive Power shall be vested in the President of the Republic, who shall exercise it through his Department Secretaries.

Art. 58. The President of the Republic shall be elected by absolute majority of votes by the Assembly and by the special Representatives, convinced in chamber assembled.

His term of office shall be four years, and may be reelected.

In 1935, after the Americans took over, a new constitution was created which established a Commonwealth Republic with a President at its helm. This Constitution set the term of the President for six years and banned an immediate re-election. These pertinent provisions are as follows:

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

Sec. 2. The President shall hold his office during a term of six years, and together with the Vice-President chosen for the same term, shall be elected by direct vote of the people.

Sec. 4. No person elected President may be re-elected for the following term, nor shall the Vice-President or any other person who may have

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25. David Short, *Politics and Government*, available at [http://philippines-archipelago.com/politics/politics\\_government.html#biak-na-bato](http://philippines-archipelago.com/politics/politics_government.html#biak-na-bato) (last accessed July 4, 2008).

26. 1897 BIAK-NA-BATO CONST. art. XXXIV (superseded 1899).

27. 1899 MALOLOS CONST. arts. 56 & 58 (superseded 1902). The original Spanish text was translated to English by Sulpicio Guevara. The translation was obtained from Centennial Publication, National Historical Institute.

succeeded to the office of President as herein provided at least one year before the election, be eligible to the office of President at such election.<sup>28</sup>

In 1940, this constitution was amended and the President's term was shortened to four years, although it allowed one re-election, therefore, actually allowing the President to serve for a total of eight years in office. The amendments read as follows:

Sec. 2. The President shall hold his office during a term of four years and together with the Vice-President chosen for the same term, shall be elected by direct vote of the people.

Sec. 5. No person shall serve as President for more than eight consecutive years. The period of such service shall be counted from the date he shall have commenced to act as President. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of the service of the incumbent for the full term for which he was elected.<sup>29</sup>

Another constitution was created in 1943, during the occupation of Japanese forces. It returned the term of the President to a period of six years, without immediate re-election. The President who served during this period was Jose P. Laurel, who declared martial law based on the danger of invasion by virtue of Proclamation No. 29.<sup>30</sup> Incidentally, the text of Proclamation No. 29 shows that this declaration was done on 21 September 1944, similar to the date of the declaration of martial law by Ferdinand Marcos decades later.<sup>31</sup>

After the Japanese forces left, the Philippines became a Commonwealth Republic. The 1935 Constitution adopted a presidential form of government. This Constitution, however, was amended in 1939, 1940, and 1947, changing the term and term limits of the President. The significant provisions of the 1935 Constitution on executive power and term limits are the following:

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28. 1935 PHIL. CONST. art. VII, §§ 1, 2, & 4 (superseded 1973).

29. 1935 PHIL. CONST. art. VII, §§ 2 & 5 (superseded 1973). These provisions reflect the amendments made in 1940.

30. Proclaiming Martial Law Throughout the Philippines, Proclamation No. 29 (1944).

31. 1973 PHIL. CONST. art. III, §§ 1 & 4 (superseded 1987). The relevant sections of article III of the 1943 Constitution provide:

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

Sec. 4. The President shall hold office during a term of six years and may not be re-elected for the following term.

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

Sec. 2. The President shall hold his office during a term of six years, and together with the Vice-President chosen for the same term, shall be elected by direct vote of the people. The election returns for President and Vice-President, duly certified by the board of canvassers of each province, shall be transmitted to the National Assembly. Upon receipt of such returns the National Assembly shall forthwith, in public session, count the votes, and proclaim the persons elected President and Vice President. The persons respectively having the highest number of votes for President and Vice-President shall be declared elected, but in case two or more shall have an equal and the highest number of votes for either office, the National Assembly shall, by a majority vote of all its Members, elect one of said persons as President or Vice-President.

Sec. 4. No person elected President may be re-elected for the following term, nor shall the Vice-President or any other person who may have succeeded to the office of President as herein provided at least one year before the election, be eligible to the office of President at such election.<sup>32</sup>

The Presidents who served under this Constitution were:

- (1) Manuel Roxas, from 4 July 1946 to 14 April 1948;
- (2) Elpidio Quirino, from 18 April 1948 to 30 December 1949, and then again for a second term from 30 December 1949 to 30 December 1953;
- (3) Ramon Magsaysay, who served from 30 December 1953 to 17 March 1957;
- (4) Carlos Garcia, who served from 23 March 1957 to 30 December 1957 for his first term, and from 30 December 1957 to 30 December 1961 for his second term;
- (5) Diosdado Macapagal, from 30 December 1961 to 30 December 1965; and
- (6) Ferdinand Marcos, from 30 December 1965 to 30 December 1969 for his first term, and from 30 December 1969 to 30 December 1973 for his second term.

Desiring to perpetuate himself in power, former President Ferdinand Marcos on 21 September 1972 issued Proclamation No. 1081, declaring a state of Martial Law in the Philippines allegedly due to “lawless elements”

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32. 1935 PHIL. CONST. art. VII, §§ 2 & 5 (superseded 1973). The provisions cited are those prior to the 1940 amendment.

who may be using organizations as fronts to commit acts of violence, insurrection, and rebellion.<sup>33</sup>

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33. Proclaiming a State of Martial Law in the Philippines, Proclamation No. 1081 (1972). The salient portions of the proclamation are quoted below:

WHEREAS, on the basis of carefully evaluated and verified information, it is definitely established that lawless elements who are moved by a common or similar ideological conviction, design, strategy and goal and enjoying the active moral and material support of a foreign power and being guided and directed by intensely devoted, well trained, determined and ruthless groups of men and seeking refuge under the protection of our constitutional liberties to promote and attain their ends, have entered into a conspiracy and have in fact joined and banded their resources and forces together for the prime purpose of, and in fact they have been and are actually staging, undertaking and waging an armed insurrection and rebellion against the Government of the Republic of the Philippines in order to forcibly seize political and state power in this country, overthrow the duly constituted government, and supplant our existing political, social, economic and legal order with an entirely new one whose form of government, whose system of, laws, whose conception of God and religion, whose notion of individual rights and family relations, and whose political, social, economic, legal and moral precepts are based on the Marxist-Leninist-Maoist teachings and beliefs;

WHEREAS, these lawless elements, acting in concert through seemingly innocent and harmless, although actually destructive, front organizations which have been infiltrated or deliberately formed by them, have continuously and systematically strengthened and broadened their memberships through sustained and careful recruiting and enlistment of new adherents from among our peasantry, laborers, professionals, intellectuals, students, and mass media personnel, and through such sustained and careful recruitment and enlistment have succeeded in spreading and expanding, their control and influence over almost every segment and level of our society throughout the land in their ceaseless effort to erode and weaken the political, social, economic, legal and moral foundations of our existing government, and to influence, manipulate and move peasant, labor, student and terrorist organizations under their influence or control to commit, as in fact they have committed and still are committing, acts of violence, depredations, sabotage and injuries against our duly constituted authorities, against the members of our law enforcement agencies, and worst of all, against the peaceful members of our society;

...

WHEREAS, these lawless elements having taken up arms against our duly constituted government and against our people, and having committed and are still committing acts of armed insurrection and rebellion consisting of armed raids, forays, sorties, ambushes, wanton acts of muliders, spoilage, plunder, looting, arsons, destruction of

*B. Ferdinand Marcos and Martial Law*

Approaching the end of his second term of office, in a cunning move to perpetuate himself in power, Marcos issued Proclamation No. 1081, declaring a state of Martial Law in the Philippines, and insisted on the

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public and private buildings, and attacks against innocent and defenseless civilian lives and property, all of which activities have seriously endangered and continue to endanger public order and safety and the security of the nation, and acting with cunning and manifest precision and deliberation and without regard to the health, safety and well-being of the people, are now implementing their plan to cause widespread, massive and systematic destruction and paralization of vital public utilities and services, particularly water systems, sources of electrical power, communication and transportation facilities, to the great detriment, suffering, injury and prejudice of our people and the nation and to generate a deep psychological fear and panic among our people;

...

WHEREAS, the rebellion and armed action undertaken by these lawless elements of the communist and other armed aggrupations organized to overthrow the Republic of the Philippines by armed violence and force have assumed the magnitude of an actual state of war against our people and the Republic of the Philippines;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested upon me by Article VII, Section 10, Paragraph (2) of the Constitution, do hereby place the entire Philippines as defined in Article I, Section 1 of the Constitution under martial law and, in my capacity as their commander-in-chief, do hereby command the armed forces of the Philippines, to maintain law and order throughout the Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all the laws and decrees, orders and regulations promulgated by me personally or upon my direction.

In addition, I do hereby order that all persons presently detained, as well as all others who may hereafter be similarly detained for the crimes of insurrection or rebellion, and all other crimes and offences committed in furtherance or on the occasion thereof, or incident thereto, or in connection therewith, for crimes against national security and the law of nations, crimes against public order, crimes involving usurpation of authority, rank, title and improper use of names, uniforms and insignia, crimes committed by public officers, and for such other crimes as will be enumerated in Orders that I shall subsequently promulgate, as well as crimes as a consequence of any violation of any decree, order or regulation promulgated by me personally or promulgated upon my direction shall be kept under detention until otherwise ordered released by me or by my duly designated representative.

ratification of a new constitution with a new form of government. According to *Planas v. Commission on Elections*,<sup>34</sup> which narrated the events during this time, resolutions were passed by Congress in 1967 and then in 1969 calling for a Convention to propose amendments to the Constitution.<sup>35</sup> The election of delegates to the said Convention was held on 10 November 1970, and the 1971 Constitutional Convention began to perform its functions on 1 June 1971.<sup>36</sup>

Nevertheless, while the Convention was in session on 21 September 1972, Marcos issued Proclamation No. 1081. On 29 November 1972, the proposed constitution was approved by the Convention. The following day, Marcos issued Presidential Decree No. 73<sup>37</sup> and also set the plebiscite for the ratification or rejection of the proposed constitution on 15 January 1973.<sup>38</sup>

Objections to Presidential Decree No. 73 were made, the leading case in opposition being *Planas*. On 17 December 1972, however, Marcos temporarily suspended the effects of martial law to open up a “free and open debate on the Proposed Constitution.”<sup>39</sup> Subsequently,

[o]n December 23, the President announced the postponement of the plebiscite for the ratification or rejection of the Proposed Constitution. No formal action to this effect was taken until January 7, 1973, when General Order No. 20 was issued, directing “that the plebiscite scheduled to be held on January 15, 1973, be postponed until further notice.” Said General Order No. 20, moreover, “suspended in the meantime” the “order of December 17, 1972, temporarily suspending the effects of Proclamation No. 1081 for purposes of free and open debate on the Proposed Constitution.”<sup>40</sup>

Meanwhile, Citizens Assemblies had been organized through President Decree No. 86, to whom the question “Do you approve of the New Constitution?” was posed. On 17 January 1973, while the Supreme Court was still hearing *Planas* and other joined petitions to enjoin the holding of a

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34. *Planas v. Commission on Elections*, 49 SCRA 105 (1973).

35. *Id.* at 110.

36. *Id.*

37. Submitting to the Filipino People for Ratification or Rejection the Constitution of the Republic of the Philippines Proposed by the 1971 Constitutional Convention, and Appropriating Funds Therefor, Presidential Decree No. 73 (1972).

38. *Planas*, 49 SCRA at 110-11.

39. *Id.* at 112.

40. *Planas v. Commission on Elections*, 49 SCRA 105, 112 (1973).

plebiscite, the President, by Proclamation No. 1102,<sup>41</sup> announced that the proposed Constitution had been ratified by an overwhelming vote of the members of the Citizens Assemblies.<sup>42</sup>

The Supreme Court therefore only ruled in *Planas* that:

On the validity of the decree itself, Justices Makalintal, Castro, Fernando, Teehankee, Esguerra and myself (J. Makasiar, ponente), or six (6) Members of the Court, are of the opinion that the issue has become moot and academic, whereas Justices Barredo, Makasiar and Antonio voted to uphold the validity of said Decree.<sup>43</sup>

Later, in *Javellana v. Executive Secretary*,<sup>44</sup> ruling on the validity of Proclamation No. 1102 and on whether or not the Constitution proposed by the 1971 Constitutional Convention had been ratified validly and whether or not the new Constitution was in force, the Supreme Court ruled that “there is no further judicial obstacle the new Constitution being considered in force and effect.”<sup>45</sup>

The 1973 Constitution made the President a mere symbolic figure, merely elected from among the members of the National Assembly by majority vote for a fixed term of six years. This constitution was silent on whether the President would be eligible for re-election or not. Salient sections of Article VII read:

Sec. 1. The President of the Philippines shall be the symbolic head of the State.

Sec. 2. The President shall be elected from among the members of the National Assembly by a majority vote of all its members for a term of six years from the date he takes his oath of office, which shall not be later than three days after his proclamation by the National Assembly, nor in any case earlier than the expiration of the term of his predecessor. Upon taking his oath of office, the President shall cease to be a member of the National Assembly and of any political party. He shall be ineligible to hold any other elective office during his term.<sup>46</sup>

The executive power was then placed in the hands of a Prime Minister, a new concept in Philippine history at the time. According to the 1973 Constitution, “[t]he executive power shall be exercised by the Prime

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41. Announcing the Ratification by the Filipino People of the Constitution Proposed by the 1971 Constitutional Convention, Proclamation No. 1102 (1973).

42. *Planas*, 49 SCRA at 122-24.

43. *Id.* at 127.

44. *Javellana v. Executive Secretary*, 50 SCRA 30 (1973).

45. *Id.* at 141.

46. 1973 PHIL. CONST. art. VII, §§ 1 & 2 (superseded 1987).



Minister with the assistance of the Cabinet. The Cabinet, headed by the Prime Minister shall consist of the heads of ministries as provided by law. The Prime Minister shall be the head of the government.”<sup>47</sup>

The Prime Minister would be elected by a majority vote of all the members of the National Assembly.<sup>48</sup> Bernas observed, “[t]he relation of the Prime Minister to the members of the Cabinet [was] one of supremacy. It [was] no different from the relation of the President of the 1935 Constitution to his department secretaries and to his Cabinet.”<sup>49</sup> Bernas also clarified that the Prime Minister had no fixed term. In his book on Constitutional Law, he stated: “It should be noted that the Prime Minister ha[d] no fixed term. He stay[ed] in office only for as long as he enjoy[ed] the confidence of the Assembly.”<sup>50</sup>

The concept of a ceremonial President, however, never really took effect. Marcos was allowed to retain his powers under the 1935 Constitution, and he was, at the same time, ceremonial President *and* Prime Minister.

In 1981, the 1973 Constitution was revised and the President was once more made head of state and chief executive, while the Prime Minister was reduced to a ceremonial figure.<sup>51</sup> Marcos was then able to maintain himself in power until the People Power Revolution of 1986.

### C. *The 1987 Constitution*

The Marcos regime, while initially brimming with optimism and potential for national development, ended marred with allegations of human rights violations and massive corruption. The death of Senator Benigno Aquino upon his arrival at the Manila International Airport (now called the Ninoy Aquino International Airport) from exile in the United States sparked a call to Filipinos to demand the ouster from power of Marcos. Two years from the death of Aquino, in November 1985, Marcos succumbed to calls for a snap presidential election. Corazon Aquino, the widow of Ninoy Aquino, challenged President Marcos for the presidency and elections were held on 8 February 1986.

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47. 1973 PHIL. CONST. art. IX, § 1 (superseded 1987).

48. 1973 PHIL. CONST. art. IX, § 3 (superseded 1987) (“The Prime Minister shall be elected by a majority vote of all the members of the National Assembly from among themselves.”).

49. JOAQUIN G. BERNAS, S.J., *THE 1973 CONSTITUTION: NOTES AND CASES* 280 (1974).

50. *Id.*

51. JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 730 (1997) [hereinafter BERNAS, COMMENTARY].

On 15 February 1986, the Batasang Pambansa, in the exercise of powers given by the 1973 Constitution, proclaimed Marcos President despite widespread protest. Subsequently, beginning on the afternoon of 22 February 1986, a military coup headed by then Defense Secretary Juan Ponce Enrile and Armed Forces of the Philippines Chief of Staff Fidel Ramos, backed by immense civilian support led by then Manila Archbishop Cardinal Jaime Sin, materialized on Epifanio de los Santos Avenue (EDSA). These forces threw their support behind Corazon Aquino. By the morning of 25 February 1986, Corazon Aquino, in defiance of the provisions of the 1973 Constitution and without the sanction of the Batasang Pambansa which had chosen to give the presidency to Marcos, was proclaimed President of the Republic of the Philippines in simple rites held at the Club Filipino. She was sworn in by Senior Associate Justice of the Supreme Court Claudio Teehankee.

At the same time, however, by virtue of the Batasang proclamation of 15 February 1986, Marcos was also sworn in by Chief Justice Ramon Aquino in Malacañang. On the night of the 25th, Marcos, with his family, went into exile.

In a historical move, Corazon Aquino turned her back on the 1973 Constitution, whose officials had denied her the presidency. Barred by the processes of the 1973 Constitution, she chose instead to govern under a provisional constitution designed to enable her to meet the people's challenge. The document that marked Corazon Aquino's defiance was marked Proclamation No. 3, which later became known as the "Freedom Constitution."<sup>52</sup>

The Freedom Constitution mandated the creation of a commission to draft a new constitution. The mandate included the conduct of public hearings to "insure that the people will have adequate participation in the formulation of the New Constitution."<sup>53</sup> This provisional constitution allotted sections concerning the Constitutional Commission:

Sec. 1. Within sixty (60) days from date of this Proclamation, a Commission shall be appointed by the President to draft a New Constitution. The Commission shall be composed of not less than thirty (30) nor more than fifty (50) natural born citizens of the Philippines, of recognized probity, known for their independence, nationalism and patriotism. They shall be chosen by the President after consultation with various sectors of society.

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52. *Id.* at xxxix. See Declaring a National Policy to Implement the Reforms Mandated by the People, Protecting their Basic Rights, Adopting a Provisional Constitution, and Providing for an Orderly Transition to a Government under a New Constitution [FREEDOM CONST.], Proclamation No. 3 (1986).

53. BERNAS, COMMENTARY, *supra* note 51, at xl.

Sec. 3. The Commission shall conduct public hearings to insure that the people will have adequate participation in the formulation of the New Constitution.<sup>54</sup>

The 1986 Constitutional Commission convened on 1 June 1986 and finished its work on 15 October 1986. The new Constitution was ratified on 2 February 1987.<sup>55</sup>

Bernas reflected that the 1987 Constitution is “in many ways ... a reaction to governmental abuses under the Marcos regime whose spirit and practices are gradually creeping in to influence the behavior of current power holders.”<sup>56</sup> The form of government was returned to a presidential form of government, with a tripartite structure composed of the legislative, executive, and judicial branches. Congress was returned to a bicameral legislature. The President was once again made chief executive. The term of the President was extended to six years, “without any reelection.”<sup>57</sup>

#### IV. INTENT OF THE FRAMERS OF THE 1987 CONSTITUTION

A constitution is “that written instrument by which the fundamental powers of the government are established, limited and defined, and by which these powers are distributed among the several departments for their safe and useful exercise for the benefit for the body politic.”<sup>58</sup> It is that written instrument agreed upon by the people and, therefore, the highest law of the land. Being the supreme written law of the land, it cannot be amended or revised as easily as ordinary laws. Instead, it is to be construed in light of its purpose and should be given a practical interpretation so that the plainly manifested purpose of those who created them may be carried out.<sup>59</sup> A perusal of the debates and voting by the commissioners should shed light on the present wording of the section in the Constitution on re-election.

##### *A. Voting by the Commissioners*

Much of the debate on whether or not a President may run again six years after the end of his term uses arguments harping on the intent of the framers of the 1987 Constitution. Constitutionalists, such as Bernas and Monsod, who were also members of the 1986 Constitutional Convention, insist that

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54. FREEDOM CONST. art. VI, §§ 1 & 3 (superseded 1987).

55. BERNAS, COMMENTARY, *supra* note 51, at xl.

56. *Id.*

57. PHIL. CONST. art. VII, § 4.

58. RUPERTO G. MARTIN, LAW AND JURISPRUDENCE ON THE FREEDOM CONSTITUTION 15 (1986) (citing GEORGE MALCOLM & JOSE P. LAUREL, THE CONSTITUTIONAL LAW OF THE PHILIPPINES 6 (1936)).

59. 16 AM. JUR. 2D *Constitutional Law* § 65 (1969).

the framers of the Constitution intended an “absolute ban,” that is, one can only serve as President but once. Other legal experts, however, including a former Chief Justice of the Supreme Court,<sup>60</sup> insist that the wording of the Constitution only bans the President from running during the term succeeding his incumbency as President.

The arguments in the Records of the Constitutional Convention show just as much confusion. In fact, two rounds of voting, one in the morning of 24 July 1986 and another in the afternoon show opposite results with respect to the issue of an “absolute” versus a “limited” ban. Several schemes with respect to the term limit of the President were proposed, including a scheme for a four-year term with one immediate re-election, a six-year term with one re-election, and a six-year term with a perpetual ban on running for the presidency again. While Commissioner Hilario Davide argued eloquently for his proposal of a four-year term with a possible re-election,<sup>61</sup> Commissioners

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60. Former Chief Justice Andres Narvasa believes that former President Joseph Estrada is eligible to run for President again.

61. II RECORD OF THE 1986 CONSTITUTIONAL COMMISSION 209. The records called Davide’s proposal Scheme No. VII. His reasoning was:

[U]nder the scheme that I am proposing, it will totally eliminate from our political scene the growth and maintenance of political dynasties because at no given time may an elective representative serve for a total of more than eight consecutive years because he would be allowed only one reelection. And if the people will opt to elect him again, he can rest only one term of four years and after that he can run again on the 13th year following the first eight consecutive years.

And so at the very most then, we can say that an elective official can hold on to office for a total of eight consecutive years only. And necessarily, we will give opportunity to the others to seek election for a public office. A public office is not the monopoly of any one politician or any one family where forever the father or the wife and the son or the daughter will hold on to a particular position. We are a country of 56 million Filipinos already. Why create a political elite group concentrated only to a few families?

So if we would allow only a maximum of eight-year term, we can share the sacred task of serving a public office with many more Filipinos, especially the young. Our electorate is a young electorate. And so I appeal to the young people. This is the only chance for us to be able to have an opportunity to win against the tyranny of political dynasties.

Furthermore, Madam President, if we will adopt this particular scheme of four-four-four, we will have a self-rejuvenating office. Like in the presidency, a President can hold on to office for a total of eight years because we will allow one reelection, the idea being that six years may be too long indeed for a bad President, but not too long for a good President. So we will allow one reelection for the President, the Vice

Jose Bengzon and Francisco Rodrigo's proposal for a term of six years for the President and Vice-President, possibly influenced by Bengzon's argument quoting former President Manuel Quezon that "four years is too short for a good president," won the vote.

MR. BENGZON: *I would say, Madam President, six years would be good enough for a good President to perform and implement his program of government. How about one who is a bad President? People will say six years is too long. To that I say that in the committee reports, we have emasculated the powers of the Executive. We have reduced the power of the President. We have strengthened the powers of the Supreme Court. We have institutionalized all over the committee reports people's power. And therefore, to me a bad President will not be able to carry out his evil deeds with all of these checks and balances, with the emasculated powers that he would have, with the strengthened Supreme Court and judiciary, with the strengthened legislature and, principally and most of all, with the people's power which is now recognized in the Constitution.*<sup>62</sup>

The next question then was whether or not the Constitution should allow a President with a six-year term the privilege of being elected again, or the privilege of being elected indefinitely. The explanations of the sponsors show that the proposition of Commissioner Rodrigo, who sponsored the scheme for a presidential term of six years, only contemplated a ban for an "immediate re-election," that is, the President would be barred from participating only in the elections immediately following his term as President but not from elections following that.

MR. REGALADO: [S]o, I will just address the first question to the sponsor of Scheme No. II, Commissioner Rodrigo, because neither the sponsors of Scheme Nos. I and II which bar the President from reelection after the first six years, has made an qualificative [sic] mention of the possibility of the President after the six-year term as not being eligible after the lapse of six years immediately following the term.

Under the present proposed Article on the Executive, a natural-born citizen at the age of 40, is entitled to run for President. Assuming he gets elected, by the time the term ends he will be 46; then he goes into a six-year period of political hibernation and things may change such that later his sterling qualities displayed during his term may warrant his being re-harnessed and re-impressed into the public service. Would Commissioner Rodrigo consider the possibility that although we maintain the six-year term for the President, he shall only be barred from immediate reelection

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President ... so at least every eight years, granting that they would be reelected, we will have a new face in Malacañang, a new face at the Executive House ....

*Id.*

62. *Id.* at 207 (emphasis supplied).

and that after the intervening six years, he could thereafter be eligible for another term?

MR. RODRIGO: I would not be averse to such a suggestion, meaning to say, after the six-year term, he cannot run for reelection on that year, but two years later, there will be another election but that will be a local election. He will have to wait for six years. I cannot mathematically make a computation on how he can run for reelection after a shorter period than six years.

MR. REGALADO: [A]fter all, he would only be about 52 years old when he runs for reelection, assuming he gets elected at the age of 40.

MR. RODRIGO: Yes, then he finishes his term at 46. The next presidential election would be six years later.

MR. REGALADO: Six years later, he will only be 52.

MR. RODRIGO: Yes, he can run for reelection 70.<sup>63</sup>

Put to a vote, it surfaced that the sentiment of the entire body of Commissioners was not in favor of an absolute ban, preferring only a bar on an immediate re-election. The following choices for the wording of the section were put to a vote: (1) The President shall have a term of six years without immediate re-election; (2) The President shall have a term of six years without any re-election; and (3) The President shall have a term of six years, with one immediate re-election. The results were the following:

(1) *The President shall have a term of six years without immediate reelection.*

*In favor: 32. Against: 5. The proposition is approved.*

(2) The President shall have a term of six years without any reelection

*In favor: 15. Against: 21. The proposition is lost.*

(3) The President shall have a term of six years, with one immediate reelection.

*In favor: 1. Against: 20. The proposition is lost.*<sup>64</sup>

This is the wording that won in the voting during the debates in the morning of 25 July 1986, when the Constitutional Commission deliberated on the term of the presidency. In the afternoon, however, Commissioner Ambrosio Padilla insisted on eliminating the word “immediate” in order to impose an absolute ban on re-election, only using as argument the example of the country of Mexico, where a “dummy” president was used in order to perpetuate the “real” president in power.<sup>65</sup>

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63. *Id.* at 216 (emphasis supplied).

64. *Id.* at 228 (emphasis supplied).

65. *Id.* at 246-47. Commissioner Padilla’s explanation is quoted in full below:

This was put to a vote and the edited version was adopted, albeit by a lesser number than those who had voted for the earlier interpretation.<sup>66</sup> This is the reason why Bernas insists that the intent of the framers of the

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With regard to the President, the vote was for no reelection. I understand that the majority vote was for no immediate reelection. I would like to ask for a reconsideration of that decision by qualifying the reelection to “immediate,” because I believe that the prohibition on reelection for the President should be permanent, or one might want to use the word “perpetual.” My reason is this: There was an occasion, I believe, in Mexico where the term of the President was six years without reelection. But to formally comply with that prohibition, the very strong political party that controlled Mexico, without practically an opposition, worked for the incumbent President who has served six years to choose the man who will run for President, who was for all political and party purposes the same as the former President, with a view that as the Second President, he was his alter ego. The former President ran during the third election, and thus perpetuated the power that he has accumulated during his first term.

I think the evil that we have been trying to prevent, and which I thought was already concurred in by the majority, not practically by all, is that we do not want the President to control the nation and govern the people for more than six years, with the idea that he should never return to the presidency even if he allows another, probably his own part, to run in the meantime because that will not cure the evil of reelection on the part of the President. In other words, Madam President, I want to eliminate that word ‘immediate.’

66. *Id.* at 249. The relevant portions of the deliberations are cited below:

MR. PADILLA: The proposal, Madam President, is to eliminate the word ‘immediate,’ so that the President shall have a six-year term without reelection.

THE PRESIDENT: So, the effect of this is, the President will serve for six years without reelection. That carries a total ban on his being elected again at any future time to the position of President.

...

#### VOTING

THE PRESIDENT. *This morning — I was reviewing the transcripts — what I said was: ‘Is that clear, without immediate reelection?’ And then we got the vote and the results showed 32 votes in favor and 5 against. In other words, 32 members were in favor of the phrase “without immediate reelection.”*

*There being a motion to consider, let us vote on this motion, whether we shall reconsider the decision that was arrived at this morning on the Office of the President. ... The results show 22 votes in favor and 5 against; the motion is approved.*

Constitution was for an “absolute ban.” Nevertheless, this is still not telling of the intent of the framers as such result received vehement objections.

*B. Reasons for Not Allowing Re-Election*

The following are the reasons given by the framers of the 1987 Constitution for not wanting to allow a President to run for re-election.

*1. Abuse of Power*

The imposition of martial law to a freedom-loving people had harsh and long-lasting effects. All throughout the Constitution, there were consistent and repeated messages regarding the need to ensure that safeguards are set in place to prevent another incidence of abuse of power by one man. The same fear of a repeat of martial law, or fear that any future President might abuse the authority and powers of his office, was discussed when drafting this section of the Constitution on the powers and term limits of the Chief Executive was being drafted. Commissioner Rodrigo, the sponsor of the adopted scheme of six years, explained that “[t]he main reason we want to prohibit a President from running for reelection is that he might use his vast powers to assure his reelection ....”<sup>67</sup>

Commissioner Edmundo Garcia, while optimistic about the performance of future leaders, also warned that we must “learn from the lessons of our recent past.”<sup>68</sup> He also gave the reminder that sometimes those who are in power for too long begin to view the office they hold as a property right instead of the privilege that it is. He said: “But I think a more important principle is at stake here — the principle of unlimited reelection — for a public official can view the office almost as a property right. I think this is one thing rejected by many people in many of the hearings.”<sup>69</sup>

Meanwhile Commissioner Rene Sarmiento was more pessimistic and believed that a repeat of the Marcos regime would not be farfetched if reelection was allowed. He stated:

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67. II RECORD 208.

68. *Id.* at 241. Commissioner Garcia further explained:

Very briefly, I think there are two principles involved .... First, the recognition of the ambivalent nature of political power. Second, the recognition of alternative forms of public service. I think what is important for this omission to remember is that we must learn from the lessons of our recent past. We must see public service primarily, if not exclusively, as a service to the people rather than the opportunity to accumulate political power.

69. *Id.* at 229.



We have that experience under Marcos, having tasted power too long — four years and one reelection. He will only think of perpetuating himself in power and nothing more. A four year term with one reelection is dangerous because before his term expires, his main concern will only be mending his political fences, politicking, winning the hearts of his people just to win another reelection. It has been said that one becomes a statesman only after winning the reelection.<sup>70</sup>

## 2. Prevention of Political Dynasties

Another fear, also related to the perpetuation of power by one man, was the fear of political dynasties. It is not uncommon in Philippine politics to have three members of the family in government at one point in time. There are also a number of established “political families” — families whose members have been elected to serve a constituency either simultaneously or consecutively.

Commissioner Davide, aware of this political reality, proposed a term of four years with only one re-election. His reason for limiting the term of office to eight years was to eliminate such political dynasties. He argued in this wise:

Scheme No. VII provides for a term of four years for the President, ... allowing them only one reelection only (except the local officials will be allowed unlimited reelections); meaning to say, that none would serve for more than eight years.

...

[U]nder the scheme that I am proposing, it will totally eliminate from our political scene the growth and maintenance of political dynasties because at no given time may an elective representative serve for a total of more than eight consecutive years because he would be allowed only one reelection.<sup>71</sup>

Note, however, that the ban on re-election that Davide contemplated was just against an immediate re-election. He explained that “[i]f the people will opt to elect him again, he can rest only for one term of four years and after that he can run again on the 13th year following the first eight consecutive years.”<sup>72</sup>

## 3. Undue Advantage of the Incumbent

A more practical reason for not favoring re-election is to create a fair electoral playing field. When the incumbent runs for President, he or she would have the resources and influence of his or her office on hand. This

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70. *Id.* at 219-20.

71. *Id.* at 209.

72. *Id.*

would give him an unfair advantage over anyone else who would seek that same office. As Commissioner Garcia noted:

We put a constitutional bar to reelection ... because of the undue advantage of the incumbent. It is not because of lack of trust in the people. ... [B]asically it is because of the undue advantage of the incumbent that he accumulates power, money, party machine or patronage .... [P]olitics is not won by ideals alone; it is won by solid organizing, work by organizations that have the capacity to do so; and normally the incumbent has all the advantages.<sup>73</sup>

### C. Favoring the Absolute Ban

Some commissioners took the ban a step further, stating that despite a ban on re-election after a President serves his term, it would still be possible for him to keep himself in power forever. One of the ways would be by using a “dummy” candidate during the intervening period or the succeeding term, in order to return after the mandated break. The other way would be by having a “dominant party” that would always rule the elections, thereby allowing the party to stay in power forever.

Commissioner Padilla cited the case of Mexico in illustrating the employment of “dummy” scheme to circumvent the prohibition.<sup>74</sup> Also illustrating his point using the experience of Mexico, Commissioner Garcia pointed out that the fear is not really on the monopoly of power by one person alone, but by the dominant party. He elucidated that:

The problem we face here is the problem of the accumulation of power in the Office of the President. Furthermore, the problem is not the accumulation of power in one man, but the accumulation of power in the dominant party. The problem in Mexico is that the *Partido Revolucionario*

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73. II RECORD 243.

74. See II RECORD 247. Commissioner Napoleon Rama, agreeing with Commissioner Padilla, commented further on the matter:

[I] have read and studied that event and episode in Mexico where the President, using a ‘tuta,’ circumvented the provision in the Constitution where he is not allowed a reelection. And the commentary was that the Mexican President circumvented that provision and perpetuated the evil that sought to be corrected because, in using a ‘tuta’ or somebody that he could manipulate, the he was using gain the funds and facilities of the government in perpetuating himself in power because he was just setting p that person to pave the way for his return. And he returned to office, as a matter of fact after the term of that ‘tuta’ expired. So, that was an evil that all historians of Mexico have isolated as an evil that should be cured. Therefore, I agree with Commissioner Padilla that we should eliminate the word “immediate”, because we are trying to prevent precisely the use of tremendous presidential powers to perpetuate the person in office.

*Institucional* was the dominant party manipulating the succession to the presidency in such a way that the *Tapado*, the person chosen by the President to go on to the next term, is a succession in the dominant political party itself. There are many parties in Mexico right now, but the one dominant party determines the country's future and political direction. That is what we want to avoid, not the accumulation of political power in the person of the President but in one dominant party. And I think that is a very important thing that we can stop now, by making sure that no reelection takes place. That is why I am supporting the position of Commissioner Padilla.<sup>75</sup>

*D. Objections to the Absolute Ban*

Nevertheless, there were vehement objections to the proposition for a "perpetual disqualification" on re-election. The reasons behind their opposition are enumerated below.

1. Examples like that of Mexico are rare; the Philippines is unlike Mexico.

The proposition of Commissioner Padilla rested solely on the example of Mexico, that a President was able to keep himself in power by having a "dummy" President elected during the period of the ban against the "real" President's election. Some commissioners observed, however, that the example of Mexico is rare if not unique, and would not necessarily apply to the Philippines. The following comments by some of the members of the Constitutional Commission are enlightening on the matter:

1. MR. RODRIGO: Madam President, I think the proposed amendment of the Gentleman is already clear. He wants to remove the word "immediate," and the result of that will be a perpetual and lifelong disqualification of the President. I would like to say a few words against that proposal.

The philosophy behind disqualifying a President from immediate reelection is so he cannot use his power as President to help him in his reelection bid. But if it is not immediate reelection, if he is out of office for six years and he runs after six years not being President, he cannot use that power of the President to help him win his election bid.

Commissioner Padilla mentioned the case of Mexico. But he himself said that Mexico had one party with practically no other party. While here, not only did we have two parties before, we are even dismantling the two-party system and establishing a multipart system. I believe that example in Mexico will not apply to the Philippines. And so, I oppose the amendment.<sup>76</sup>

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75. II RECORD 249.

76. *Id.* at 247.

2. MR. OPLE: [A]s a rule, ... no Constitution prevents the reelection of members of legislatures. And rare are constitutions, a good example is Mexico's which provide for only a single term for the President; ...<sup>77</sup>
3. MR. REGALADO: It is said that the danger in the incumbent President knowing that he is disqualified for immediate reelection may resort to the strategy of having somebody, a pawn of his, elected during the intervening period and then later seek reelection. But what do we have 24 Senators for? What do we have 250 Congressmen for? Can these brilliant stalwarts of the legislature not see through that scheme and pronounce it to the public? We have a new set of electorate. They are "conscienticized," "civicized" and "politicized." Is this not a very bad reflection on the people, that they are incapable of seeing through the stratagems and maneuvers of such a President?<sup>78</sup>

2. The fears of an abuse of power are covered by the imposition of a ban on re-election for the term immediately following one's presidency.

Some commissioners believed that a ban on re-election, referring to the election at the end of one's term, is enough of a safeguard against any possibility that a president might attempt to keep himself in power. Aside from this, other safeguards such as having a tripartite structure of government, have been placed in the constitution to ensure that the Chief Executive does not abuse the powers of his office.

Commissioner Blas Ople remarked:

I would be very wary about this Commission exercising a sort of omnipotent power in order to disqualify those who will already have served their terms from perpetuating themselves in office. I think the Commission achieves its purpose in establishing safeguards against the excessive accumulation of power as a result of consecutive terms. We do put a gap on consecutive service — in the case of the President, six years; in the case of the Vice President, unlimited; ... I think we want to prevent future situations where, as a result of continuous service and frequent reelections, officials from the President down to the municipal mayor tend to develop a proprietary interest in their positions and to accumulate those powers and perquisites [sic] that permit them to stay on stay on indefinitely or to transfer these posts to members of their families in a subsequent election. I think that is taken care of because we put a gap on the continuity or the unbroken service of all these officials. But where we now decide to put these prospective servants of the people or politicians, if we want to use the coarser term, under a perpetual disqualification, I have a feeling that we are taking away too much from the people, whereas we

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77. *Id.* at 211.

78. *Id.* at 249.

should be giving as much to the people as we can in terms of their own freedom of choice.<sup>79</sup>

Commissioner Serafin Guingona also expressed his faith in the Filipino people, whom he believes would be the best safeguard against any despotic ruler's abuse of power. He opined that:

We should not look back. We should instead look to the future.

In the future we will also have — thanks to the Committee on the Executive — a President who will find it most difficult to become a dictator because of limitations on his or her powers, such as the power to declare martial law, the power to suspend the writ of habeas corpus and others. We will also have a more independent judiciary, thanks to the Committee on the Judiciary. We would also have a Supreme Court that will be mandated to rule out so-called political questions.

All these, I believe, would considerably discourage any President from engaging in politics to insure reelection.

...

Looking to the future, ... I know the political maturity manifested by the people will be repeated in the future, particularly in the electoral process. This, to my mind, is the biggest safeguard against the fear that a President may try to win an election by hook or by crook. I say that the people will not allow this.<sup>80</sup>

3. An absolute ban would also be an absolute bar to a possibly good President.

Bishop Teodoro Bacani made the commissioners also reflect on the flipside of the proposition for an absolute ban on re-election. Commissioner Rodrigo pointed out that if the Philippines had another man like former President Ramon Magsaysay, an absolute ban would deprive the people of this leader's service by imposing an absolute ban. Their comments on this matter are illuminating:

1. BISHOP BACANI: I would like to point out that when we try to disbar or disqualify people perpetually as a reaction to a past experience, we may also be erasing the possibility for good people to be reelected when there is necessity for them in the future. If I remember right, de Gaulle was called from retirement in his old age. There may be cases in the future, we do not know, when the Philippines may need somebody to return like that. So, what I am

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79. *Id.* at 239.

80. II RECORD OF THE 1986 CONSTITUTIONAL COMMISSION 250-51.

trying to say is, let us not see only the negative but also the positive aspects of a proposition.<sup>81</sup>

2. MR. RODRIGO: I went to the public hearings in different provinces, and it is true many people were for the term of six years without reelection. Invariably, it was premised on the fact that the President has such tremendous powers that if he seeks immediate reelection while he is incumbent President, he can use those tremendous powers to have himself reelected. But what we are talking about here is not immediate reelection. What we are talking about is: Can a President who has served his term run again after six years? During those six years, he was not the President of the country. I was about to mention de Gaulle. I might mention Ramon Magsaysay who was very much loved by our people. Suppose he did not die and he was elected for six years. During those years, he conducted himself like he did before he died, and the love of the people for him would be the same as when he died, but he can no longer run for immediate reelection. But six years later, people might say: "Well, we want him again." Should we deprive our people of that wish?<sup>82</sup>

4. An absolute ban would curtail right to suffrage.

Commissioner Ople also reasoned that an absolute ban would be unduly imposing on the rights of the Filipino people to choose their own leaders, an opinion seconded by Commissioner Abubakar. Ople opined that "the right to stand for an office is inherent in the right to be voted upon with the exceptions that I have mentioned. And I think we are in danger of curtailing the right of suffrage when we put into the Constitution these numerous prohibitions ...."<sup>83</sup>

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81. II RECORD 249.

82. *Id.*

83. *Id.* at 211. Commissioner Ople, commenting further on the matter, said:

I think the veterans of the Senate and of the House of Representatives here will say that simply getting nominated on a party ticket is a very poor assurance that the people will return them to the Senate or to the House of Representatives .... That is a prerogative of the people that we should not take away from them — the right to judge those who have served. In any case, we already take away from the people the freedom to vote for the third termers because we say that a Senator, say, Mr. Rodrigo, is only good for twelve years. But if he wants to be like Cincinnatus, if he is called back by his people to serve again, let us say after a period of six years — which Commissioner Davide called a period of hibernation which is spent at his fishpond in Bulacan, Bulacan — because there is a new situation in the country that impels the people to summon him back, like Cincinnatus in the past, then there will no longer be any Cincinnatus.

Commissioner Abubakar emphasized that we should not deprive a people of choosing their leader, reminding the commissioners of the importance of placing their confidence in the voters, for they would be better able to determine whether they would want a leader to continue his services. If he did a good job, that leader would “live with them.” He reminded the Commission that it was not in their place to dictate to the people what they want.<sup>84</sup>

Commissioner Guingona also stated that the people must be able to express not only their disappointment in a leader, but their satisfaction, as well, and this must be allowed to be expressed through the ballot. He said:

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[T]he strength of democracy will depend a lot on how strong our democratic parties are, and a splintering of all these parties so that we fall back on, let us say, nontraditional parties entirely will mean a great loss to the vitality and resiliency of our democracy. I am for tapping the terms of our legislators, both Senators and Members of the House of Representatives and everybody else, which we have already done, but *I am not for perpetual disqualification from office*, a principle which we would establish if we were to depart from the committee proposal of Commissioner Davide.

*Id.* at 240 (emphasis supplied).

84. See II RECORD 241-42. Commissioner Abubakar elaborated his point in this wise:

I have heard the arguments for and against this perpetual disqualification. We are Members of the Constitutional Commission appointed by the President. *In any democracy, the voice of the people is the voice of God. ... Why should we arrogate unto ourselves the right to decide what the people want? ... Who is better qualified to judge?*

...

[W]hat right do we have in this Commission to limit the right ... to serve a number of years?

[H]ad we imposed this disqualification in 1904, we would not have developed a Quezon, an Osmeña, a Roxas and a Laurel in 1916, because after one term they would have been gone.

...

If we grant unto the electorate the right of suffrage, their right to determine their leaders, let us not limit the years of service of their candidates to mere six or nine years.

...

As I close, let me reiterate that the voice of the people is the voice of God. We people here are religious; we are not communists, so let us not limit a Representative or a local official to only one term.

II RECORD 241-42 (emphasis supplied).

Let us give ourselves a chance to participate actively and decisively in the choice of the highest magistrate in the land. When a person seeks the presidency for the meantime, we would have no way of ascertaining how he will perform as President. But once he is President, we would have a definite and reliable gauge of his ... ability. I think we should not let the people be mere bystanders in the presidential race with nothing to do but to tell the President at the finish line, that he has served not only satisfactorily but remarkably well like Presidents Quezon and Magsaysay: "Good job," and nothing more. We, our children and those who will come after us, should be given the opportunity and the pleasure of standing at the end of the line, saying, "Good work; we are ready to reward you with a reelection."<sup>85</sup>

5. The Constitutional Commission had no right to impose an absolute disqualification on the presidency .

Commissioner Monsod went so far as to remind the commission that imposing such a permanent and rigid ban was not in the dictate of their mandate as commissioners. Although speaking of the members of the Congress, the points raised by the said commissioner are instructive:

Madam, I was reflecting on this issue earlier and I asked to speak because in this draft Constitution, we are recognizing people's power [sic]. We have said that now there is a new awareness, a new kind of voter, a new kind of Filipino. And yet at the same tie, we are prescreening candidates among who the will choose. We are saying that this Constitutional Commission has decreed that those who have served for a period of nine years [for Congress] are barred from running for the same position.

...

[W]e want to broaden the people's choice but we are making a prejudgment today because we exclude a certain number of people. We are, in effect, putting an additional qualification for office — that the officials must not have served a total of more than a number of years in their lifetime.

...

Madam President, the ability and capacity of a statesman depend as well on the day-to-day honing of his skills and competence, in intellectual combat, in concern and contact with the people, and here we are saying that he is going to be barred from the same kind of public service.

*I do not think it is in our place today to make such a very important and momentous decision with respect to many of our countrymen in the future who may have a lot more years ahead of them in the service of their country.*

If we agree that we will make sure that these people do not set up structures that will perpetuate them, then let us give them this rest period



.... But let us not bar them for life after serving the public for a number of years.<sup>86</sup>

Commissioner Felicitas Aquino seconded this argument by saying that, ultimately, it is still the people who must decide on the term limits of their President and who will guard against any abuses of power by any President.<sup>87</sup> Bishop Bacani added that the Filipino people are mature enough to make such judgments, and therefore, the Commission must not deny them the privilege of suffrage now. He said that:

[W]e are really presupposing the political maturity of our people. Why is it that the political maturity seems now to be denied by asking that we should put a constitutional bar to a further election ... ? Should we use this assumption only when it is convenient for us, and not when it may also lead to a freedom of choice for the people and for politicians who may aspire to serve them longer?<sup>88</sup>

Commissioner Monsod even went so far as to say that the effect of an absolute ban might be a paralysis of the presidency:

Today, that part of our Constitution that we are dealing with is the presidency which, for some reason and by our decision, has lesser powers now and subjected to more checks both institutionally .... We took away from the President one political leverage, that is, the possibility of returning to power. A good President needs some leverage in order to be effective. Much as we would like to think that we have achieved complete maturity, we have not. We need time and even people power to be able to make sure that the presidency will work. Maybe in the future, we will be able to attain that kind of maturity.

...

[G]iven the premises I have cited, *let us honestly ask ourselves: Have we created a self-destructing presidency? Will the safeguards, no matter how noble and uplifting they are individually, cumulatively effect a paralysis of our presidency? Is it a presidency that can still operate effectively? Can it engage in effective management and*

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86. *Id.* at 237 (emphasis supplied).

87. *Id.* at 242. Commissioner Aquino expounded:

[w]hat ultimately matters is the political determination of the citizenry to chart their own national destiny. I believe that we should allow people to exercise their own sense of proportion to imbibe the salutary effects of their own strength to curtail power when it overreaches itself. In the final analysis, we cannot legislate into the Constitution the essence of new politics.... A perpetual disqualification for potential politicians will not provide the cure. At best, it will only be symptomatic; it will not kill the bacteria which are, after all, in the essence of politics. Perpetual disqualification is, at best, a palliative which could effectively foil the possibilities of real public service.

88. *Id.* at 243.

*problem solving which are essentially executive functions? I refer particularly to the following: Is it possible for us to rethink the immediate reelection of the President as a prohibition but opening it up to future canvas which could be a leverage of good President?*<sup>89</sup>

6. The people who were consulted on the re-election of a President did not contemplate an absolute ban on the term of office of the President.

The most important argument against the imposition of an absolute ban on re-election is that the people who were supposedly consulted for purposes of the 1987 Constitution did not contemplate an absolute ban on re-election. Although they voted in favor of denying the President re-election, the people did not deem this as an absolute ban to run again for the presidency. Commissioner Florenz Regalado revealed:

[I] have gone all over the minutes of those public hearings furnished us. This particular question was never brought to the people. The only question there was: Would there be no reelection? But this particular issue about immediate reelection was never brought up; ... if the matter was to be explained to them — that there may be no immediate reelection it would have been different as it was not brought to their attention. That is reflective of the collective sentiment of the people. We cannot proceed on conjectures and surmises and present it to the floor as the collective will and sentiment of the people.<sup>90</sup>

## V. CONCLUSION

Where the intent of the framers and the language of the Constitution are clear and plainly stated, courts do not deviate from such categorical intent and language. Any theory espousing a construction contrary to such intent and language deserves scant consideration.<sup>91</sup> Nevertheless, in times of confusion or controversy, constitutions are to be construed in the light of their purpose and should be given a practical interpretation so that the plainly manifested purpose of those who created them may be carried out.<sup>92</sup>

It is just proper at this point to revisit Article VII, Section 4 of the 1987 Constitution, particularly the portion which states: “The President shall not be eligible for any reelection. No person who has succeeded as President and has served as such for more than four years shall be qualified for election to the same office at any time.”<sup>93</sup>

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89. *Id.* at 434-35 (emphasis supplied).

90. *Id.* 248 (emphasis supplied).

91. *Lambino v. Commission on Elections*, 505 SCRA 160 (2006).

92. 16 AM. JUR. 2D *Constitutional Law* § 65 (1969).

93. PHIL. CONST. art. VII, § 4.

Two lines spark controversy: In the first line, does the word “President” refer to the incumbent President or any President? And does the word “reelection” contemplate the immediately following election or every re-election thereafter? From the second line, does it contemplate only persons who have succeeded as President — those who were not elected to the presidency? Or does it contemplate anyone who has served as president, whether elected or otherwise? Taken as a whole, can a President who has served his term run again for the position of President after resting from politics in the term succeeding his?

Although it is a universally recognized and incontrovertibly established rule of construction that it is presumed that words appearing in a constitution have been used according to their plain, natural, and usual signification and import, and not in a sense unreasonably restricted or enlarged,<sup>94</sup> the differing interpretations of various Philippine legal luminaries show that there are conflicting opinions as to the plain meaning of the subject section, creating the need to look into the intent of the framers of the Constitution.

Nevertheless, even the framers subjected such section to massive debate, with conflicting opinions. When the commissioners voted, the scenario for a presidential term of six years barring only an immediate re-election was the overall sentiment until Commissioner Padilla called for another voting calling for an “absolute ban” on re-election. While this proposition for an “absolute ban” was adopted later in the day, it was met with vehement and eloquently presented objections.

Therefore, we must apply the learning that opinions in a constitutional convention, especially if inconclusive of an issue, are of very limited value as explaining doubtful phrases, and are an unsafe guide (to the intent of the people) since the constitution derives its force as a fundamental law, not from the action of the convention but from the powers (of the people) who have ratified it and adopted it. The proper interpretation of a constitution depends more on how it was understood by the people adopting it than the framers’ understanding thereof. This is because

[t]he constitution does not derive its force from the convention which framed, but from the people who ratified it, the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but rather that they have accepted them in the sense most obvious to the common understanding, and ratified the instrument in the belief that that was the sense designed to be conveyed.<sup>95</sup>

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94. 16 AM. JUR. 2D *Constitutional Law* § 75 (1969).

95. *Lambino*, 505 SCRA at 333 (Puno, J., dissenting) (citing T.M. COOLEY, I A TREATISE ON CONSTITUTIONAL LIMITATIONS 143-44 (8th ed. 1927)).

The ratio in the case of *Lambino v. Commission on Elections* stated that, debates in the constitutional convention “are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the ... citizens whose votes at the polls gave that instrument the force of fundamental law.”<sup>96</sup> In this case, Justice Tinga added,

[T]he intent of a constitutional convention is not controlling by itself, and while the historical discussion on the floor of the constitutional convention is valuable, it is not necessarily decisive. The Court has even held in *Vera v. Avelino* that “the proceedings of the [constitutional] convention are less conclusive of the proper construction of the fundamental law than are legislative proceedings of the proper construction of a statute, since in the latter case it is the intent of the legislature that courts seek, while in the former courts are endeavoring to arrive at the intent of the people through the discussions and deliberations of their representatives.”<sup>97</sup>

The *Lambino* case, therefore, made it clear that more than the intent of the framers of the constitution as reflected in the debates as recorded, what must be given effect is the “intention of the people who adopted it.”

*As we cannot be guided with certainty by the inconclusive opinions of the Commissioners ... it behooves us to follow the cardinal rule in interpreting Constitutions, i.e., construe them to give effect to the intention of the people who adopted it.* The illustrious Cooley explains its rationale well, *viz.*:

[T]he constitution does not derive its force from the convention which framed it, but from the people who ratified it, the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but rather that they have accepted them in the sense most obvious to the common understanding, and ratified the instrument in the belief that that was the sense designed to be conveyed. These proceedings therefore are less conclusive of the proper construction of the instrument than are legislative proceedings of the proper construction of a statute; since in the latter case it is the intent of the legislature we seek, while in the former we are endeavoring to arrive at the intent of the people through the discussion and deliberations of their representatives.<sup>98</sup>

With respect to the intention of the people who adopted the Constitution, the revelation by Commissioner Regalado is enlightening. He disclosed: “[I] have gone all over the minutes of those public hearings furnished us. *This particular question was never brought to the people.* The only

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96. *Id.* at 331 (citing *Civil Liberties Union v. Executive Secretary*, 194 SCRA 317, 337 (1991)).

97. *Lambino v. Commission on Elections* 505 SCRA 160, 492 (2006) (Tinga, J., dissenting) (citing *Vera v. Avelino*, 77 Phil. 192, 215 (1946)).

98. *Id.* at 333 (Puno, J., dissenting) (emphasis supplied).

question there was: Would there be no reelection? But this particular issue about immediate reelection was never brought up.”<sup>99</sup>

The records reflect that, upon consultation with the people, the sentiment was for no re-election but not for a perpetual disqualification, that is, although the people were against allowing a President to serve for a period of more than six years, they were not necessarily in favor of a perpetual disqualification of such President from ever returning to the presidency. The concept of a perpetual disqualification was only added later on by Commissioner Padilla and may not necessarily be reflective of the sentiment of the people at the time.

“The history of the calling of the convention, the causes which led to it, and the discussions and issues before the people at the time of the election of the delegates, will sometimes be quite as instructive and satisfactory as anything to be gathered from the proceedings of the convention.”<sup>100</sup> It is clear from the records that fear of an abuse of power, as an after effect of the abuses of the Marcos regime, and the creation of a safeguard against the incumbent’s using the powers and influence of the presidency to win succeeding elections and perpetuate himself in power, were the reasons for desiring a ban on the president’s re-election.

Nevertheless, with respect to whether or not a perpetual disqualification from the office of the presidency was contemplated, it appears that the people may not necessarily have been of this sentiment. As “a constitution is not to be interpreted on narrow or technical principles, *but liberally and on broad general lines, to accomplish the object of its establishment and carry out the great principles of government — not to defeat them,*”<sup>101</sup> it may be necessary to interpret the Constitution in such a way as to throw the choice back to the people, as to whether or not they would want a President to serve them again. After all, one of the “great principles [of government] is the sovereignty of the people”<sup>102</sup> and this sovereignty is best expressed through the ballot. As ruled in *Lambino*,

[t]he first principle enthroned by blood in our Constitution is the sovereignty of the people. We ought to be concerned with this first principle, i.e., the inherent right of the sovereign people to decide. Stripped of its abstractions, democracy is all about who has the sovereign right to make decisions for the people and our Constitution clearly and categorically says it is no other than the people themselves from whom all

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99. II RECORD 248 (emphasis supplied).

100. *Lambino*, 505 SCRA at 333 (2006) (Puno, J., dissenting) (citing T.M. COOLEY, I A TREATISE ON CONSTITUTIONAL LIMITATIONS 143-44 (8th ed. 1927)).

101. *Id.* at 333 (Puno, J., dissenting) (citing H.C. BLACK, HANDBOOK OF AMERICAN CONSTITUTIONAL LAW 67 (2d ed. 1897)) (emphasis supplied).

102. *Id.*

government authority emanates. *This right of the people to make decisions is the essence of sovereignty, and it cannot receive any minimalist interpretation from this Court.* If there is any principle in the Constitution that cannot be diluted and is non-negotiable, it is this sovereign right of the people to decide.<sup>103</sup>

Commissioners Ople, Monsod, Aquino, Bacani, and Abubakar expressed during the deliberations that an “absolute ban” would deprive our people of their right to choose their President and to give their verdict as to whether or not he or she performed to their satisfaction during his or her term. They made the stand that the matter of an absolute ban was a disqualification that was not for them to impose but something that the people must express through the ballot. It appears they were right.

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103. *Lambino v. Commission on Elections*, 505 SCRA 160, 362 (2006) (Puno, J., dissenting) (emphasis supplied).