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EDITOR'S NOTE

Welcome to the 2025 3rd Volume, 3rd Edition of the UST Law Journal. This year's volume reflects our ongoing commitment to producing rigorous, forward-looking, and socially relevant legal scholarship that addresses the evolving challenges of our national, regional, and global legal landscape. We thank our contributors and readers for their trust and engagement as we usher in another year of meaningful discourse.

This fifth featured article, "*Political Dynasties and Their Constitutional Prohibition: Basis, Purpose, Nature, and the Way Forward,*" is a timely and incisive contribution to one of the country's most enduring constitutional dilemmas. While the 1987 Constitution expressly mandates the State to prohibit political dynasties ***"as may be defined by law,"*** the absence of an enabling statute has left this directive dormant for decades.

In this article, the author provides a comprehensive examination of the constitutional foundations of the prohibition on political dynasties, tracing its roots to the framers' intent to safeguard democratic representation and prevent the concentration of political power within a few families. By situating the issue within broader principles of equality, accountability, and republicanism, the article sheds light on why political dynasties continue to pose a structural challenge to democratic governance in the Philippines. Indeed, the article charts a constructive path forward. By outlining possible models for defining and regulating political dynasties based on empirical research, constitutional theory, and democratic practice, this piece makes a significant contribution to ongoing national conversations on political reform.

It is our hope that this article inspires deeper reflection and meaningful reform efforts that will strengthen democratic institutions and empower the Filipino people in their sovereign role as the ultimate source of political authority.

IRENE D. VALONES
Editor-In-Chief

POLITICAL DYNASTIES AND THEIR CONSTITUTIONAL PROHIBITION: BASIS, PURPOSE, NATURE, AND THE WAY FORWARD

By:

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ABSTRACT

The 1987 Constitution, in Article II Section 26, establishes the following state policy: "The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law." In view of the phrase "as may be defined by law," the Constitutional prohibition has been commonly understood to be a general principle that requires an enabling law.

The 1987 Constitution took effect almost 40 years ago, but efforts to enact a law prohibiting political dynasties have failed to gain traction despite the support of many advocates.

Many bills have been filed in Congress, some of which are pending, but none of the earlier ones have been passed into law. And many petitions have been filed in the Supreme Court to compel Congress to pass such a law; some are pending, but the earlier ones have been invariably dismissed on the ground that the Constitutional prohibition is non-self-executing and requires a legislative act of Congress, and that Congress cannot be compelled to enact an enabling law to define political dynasties.

Thus, this article explores a non-legislative, but still legal and Constitutional approach to enforce the prohibition, befitting its status as an imperative state policy that, by its very nature, does not depend on congressional (in)action.

Keywords: political dynasties, state policies, legislative discretion

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I. NATURE OF POLITICAL DYNASTIES

Article II (Declaration of Principles and State Policies) of the 1987 Constitution provides in Section 26 that *"The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law."* The provision refers to two separate but inseparable state policies: to guarantee equal access to opportunities for public service, which is not limited to elective offices, and to prohibit political dynasties as may be defined by law.

Then Justice, now retired Chief Justice Hilario Davide, who was a member of the 1986 Constitutional Commission which drafted the 1987 Constitution, recognized in his Separate Opinion in PIRMA v. COMELEC (1997)[2] the roots of political dynasties, and of the need for the Constitution to address them:

> "... as eloquently stated by Commissioner Blas Ople, ***political dynasties have their roots in a society with a feudal socio-economic structure...***
>
> x-x-x

... it should be clear that political dynasties thrive well in a society with a feudal socio-economic structure; accordingly, ***political dynasties can only ensure the continuity of the structure***. Evidently concerned with **the evils of this immutable linkage between political dynasties and a feudal socio-economic structure of society,** the Constitution deemed it expedient and wise in Section 1 of Article XIII on Social Justice and Human Rights to direct Congress to 'give highest priority to the enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.'" *(underscoring supplied for emphasis).*

II. BASIS OF AND PURPOSE FOR THE PROHIBITION

Then-Justice, now retired Chief Justice Reynato Puno followed with his Concurring Opinion in Socrates v. COMELEC (2002) which also cited the proceedings of the 1986 Constitutional Commission concerning the rationale for term limits in elective

[2] GR No. 129754 September 23, 1997.

offices, quoted as follows:

> "First: To prevent monopoly of political power - Our history has shown that prolonged stay in public office can lead to the creation of entrenched preserves of political dynasties. In this regard, I would also like to advocate that immediate members of the families of public officials be barred from occupying the same position being vacated.
>
> Second: To broaden the choice of the people - Although individuals have the right to present themselves for public office, our times demand that we create structures that will enable more aspirants to offer to serve and to provide the people a broader choice so that more and more people can be enlisted to the cause of public service, not just limited only to those who may have the reason or the advantage due to their position.
>
> Third: No one is indispensable in running the affairs of the country – After the official's more than a decade or nearly a decade of occupying the same public office, I think we should try to encourage a more team-oriented consensual approach to governance favored by a proposal that will limit public servants to occupy the same office for three terms. And this would also favor not relying on personalities no matter how heroic, some of whom, in fact, are now in our midst.
>
> Lastly, the fact that we will not reelect people after three terms would also favor the creation of a reserve of statesmen both in the national and local levels. *(underscoring supplied for emphasis)*.
>
> x-x-x

Finally, the concept of public service, if political dynasty symbolized by prolonged stay in particular public offices is barred, will have fuller meaning. It will not be limited only to those who directly hold public office, but also to consultative bodies organized by the people, among whom could be counted those who have served in public office with accomplishment and distinction, for public service must no longer be limited only to public office." [3] *(underscoring supplied*

[3] R.C.C. No. 39 Friday, July 25, 1986, https://www.officialgazette.gov.ph/1986/07/25/r-c-c-no-39-friday-july-25-1986/.

for emphasis).

"The deliberations of the ConCom and the ruling case law of *Borja, Lonzanida* and *Adormeo* show that there are two principal reasons for the three term limit for elective local officials: (1) to prevent political dynasties perpetuated by the undue advantage of the incumbent and (2) to broaden the choice of the people by allowing candidates other than the incumbent to serve the people. Likewise evident in the deliberations is the effort to balance between two interests, namely, the prevention of political dynasties and broadening the choice of the people on the one hand, and respecting the freedom of choice and voice of the people, on the other; thus, the calibration between perpetual disqualification after three consecutive terms as proposed by Commissioner Garcia, and setting a limit on immediate reelection and providing for a hibernation period.

In all three cases - *Borja, Lonzanida* and *Adormeo* - we ruled that the "term" referred to in the three term limit is service of a *full* term of three years for elective local officials. This ruling furthers the intent of the ConCom to prevent political dynasties as it is the service of *consecutive full terms* that makes service continuous and which opens the gates to political dynasties limiting the people's choice of leaders. In the words Of Commissioner Ople, ". . . 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 that permit them to stay on indefinitely or to transfer these posts to members of their families in a subsequent election..." [4] (underscoring ours)

Definition of the prohibition, according to the framers

There were proposals during the deliberations of the 1986 Constitutional Commission[5] that the phrase "prohibit political dynasties" "... is not actually prohibitory but only regulatory..." and even to use "regulate political dynasties" instead, as well as for the deletion of the prohibition or even regulation of political dynasties altogether. These were not carried; on the contrary, the deliberations reveal how the members of the Commission understood, and thus defined political dynasties:

"MR. DAVIDE: I have a proposed amendment. The proposal is

[4] J. Puno, Concurring Opinion in Socrates v. COMELEC GR No. 154512, November 12, 2002.
[5] R.C.C. No. 90 Tuesday, September 23, 1986, https://www.officialgazette.gov.ph/1986/09/23/r-c-c-no-90-tuesday-september-23-1986/.

to change the word "broaden" to the following: "ENSURE EQUAL ACCESS TO." Then instead of "office" on line 13, I propose to substitute the same with the word "SERVICE." So the entire section will read: "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties." I would like to explain the change from "office" to "SERVICE." If we change "office" to "SERVICE," we would refer to both elective and appointive positions. And political dynasties do not necessarily apply to elective positions alone. They would include appointive positions and perhaps more on the latter because it is easier to get a political appointment if somebody close to the family is an elective official, but it is difficult to have a political dynasty on the basis of election because election is an expensive exercise. I changed the word "broaden" to "ENSURE EQUAL ACCESS TO" because what is important would be equal access to the opportunity. If you broaden, it would necessarily mean that the government would be mandated to create as many offices as are possible to accommodate as many people as are also possible. That is the meaning of broadening opportunities to public service. So, in order that we should not mandate the State to make the government the number one employer and to limit offices only to what may be necessary and expedient yet offering equal opportunities to access to it, I changed the word "broaden." May we request the reaction of the committee?

THE PRESIDING OFFICER (Mr. Treñas): What does the committee say?

MR. TINGSON: Will the Commissioner kindly restate his amendment?

MR. DAVIDE: As amended it will read: "The State shall ENSURE EQUAL ACCESS TO opportunities to public SERVICE and prohibit political dynasties."

MR. TINGSON: Yes, the committee accepts the amendment.
x-x-x

MR. SUAREZ: Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Treñas): Commissioner Suarez is recognized.

MR. SUAREZ: Just a point of clarification from the distinguished proponent. May I just clear it up with Honorable Davide. There might be some points of inconsistency here

because in the first sentence we are saying that the State should give equal access to opportunities in order that the people can render public service, but the last portion would prohibit political dynasties in the manner prescribed by law. Would this not be a limitation of that equal access to opportunities?

MR. DAVIDE: No, Mr. Presiding Officer. On the contrary the idea of eliminating political dynasties is really to see to it that there will be greater opportunities to public service. We have to consider the common good or the greater number of people who will be benefited. When we prohibit political dynasties, it is to open up the opportunities to more and more people, otherwise it would be a monopoly only of a very few.

MR. SUAREZ: In other words, what we are saying is we are prohibiting the incumbents and their relatives from aspiring for that same position so that everybody will have equal access to or opportunity for this position.

MR. DAVIDE: That is my perception, Mr. Presiding Officer — not only relatives aspiring for the same office. Probably the law may provide that during the incumbency of an elective official, relatives may not be allowed to run for a position within the same political unit or to be appointed to any position within the same political unit. I say the same political unit because necessarily we cannot prevent, for instance, a son whose father is the governor of Metro Manila to run in Davao.

MR. SUAREZ: Thank you for clearing up the apparent inconsistency which does not exist at all. Thank you."[6] (underscoring ours)

No enabling law?

Despite the express intent of the framers of the Constitution to prohibit political dynasties, the Supreme Court in 2013 dismissed[7] separate petitions to compel Congress to enact an anti-dynasty law because of the presence of the phrase "as may be defined by law" in Article II Section 26.[8]

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[6] Id.

[7] Avendaño, Christine. It's final: SC denies antidynasty petitions. Philippine Daily Inquirer, March 7, 2013. https://newsinfo.inquirer.net/369577/its-final-sc-denies-antidynasty-petitions.

[8] The September 26, 1986 deliberation of the 1986 Constitutional Commission (R.C.C. No. 90 Tuesday, September 23, 1986, supra) reveals that the original phrase was "as may be *provided* by law"; this was changed to "as may be *defined* by law" upon proposal of Commissioner Davide. Parenthetically, pursuant to the state guarantee of equal opportunities for public service, Executive Order No. 292 or the Administrative Code of 1987 prohibits nepotism, subject to certain exceptions. But this prohibition applies only to appointments or to appointive positions, not elective ones. And Executive Order No. 292 was enacted into law by then-President Corazon C. Aquino pursuant to the law-making powers she then had,

"The constitutional prohibition against political dynasties is a non-self-executing provision, requiring as it does the legislative act of Congress to define what 'political dynasties' are and to prescribe the scope and limits of such prohibition. Without an enabling law, the COMELEC cannot enforce the prohibition against political dynasties, hence, *mandamus* will not lie." [9]

"... it is evident from the plain wordings of the provision against political dynasties, particularly, Section 26, Article II of the 1987 Constitution, which reads: 'the State shall guarantee equal access to opportunities for public service, ***and prohibit political dynasties as may be defined by law***,' that it is not self-executing but is simply a statement of a general principle which further requires a law passed by Congress to define and give effect thereto."[10] (emphasis supplied)

In fact the Supreme Court has consistently dismissed petitions anchored on Article II Section 26 of the Constitution. For example, it ruled in *Pamatong v. COMELEC* (2004)[11] that the provisions of Article II of the Constitution "...are generally not considered self-executing..." The Court cited *Pamatong* in *Belgica et al. v. Ochoa Jr.* et al. (2013),[12] where it resolved petitions concerning the pork barrel system and stated that Article II, Section 26 of the Constitution:

> "... is considered as not self-executing due to the qualifying phrase 'as may be defined by law.' In this respect, said provision does not, by and of itself, provide a judicially enforceable constitutional right but merely specifies guidelines for legislative or executive action. Therefore, since there appears to be no standing law which crystallizes the policy on political dynasties for enforcement, the Court must defer from ruling on this issue."

While in *I-Pope francis, Jimenez, et al. v. Department of Budget and Management (2016)*,[13] the Court denied a petition to compel the respondent DBM "to publish through its website and the Official Gazette the list of emoluments it released, including the Priority Development Assistance Fund (PDAF) or Pork Barrel, and the full names of the recipients of the same, i.e., with the middle names for determination of familial relationship" since "as of yet,

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and not by Congress. One wonders why she did not enact a counterpart law for elective offices.

[9] Biraogo v. COMELEC GR No. 203603 November 13, 2012.

[10] Id., January 8, 2013.

[11] GR No. 161872 April 13, 2004.

[12] GR No. 208566 November 19, 2013.

[13] GR No. 206689 August 24, 2016.

there is even no law that particularly defines and governs political dynasty."

Aside from these petitions, the Movement Against Dynasty Inc. (MAD) took another approach by filing *"The People's Antipolitical Dynasty Act"* in the House of Representatives under RA 6735 or the Initiative and Referendum Act.[14]

And a civil society group filed a petition to disqualify some candidates for being "clear and obvious" political dynasts.[15] It alleged that the Supreme Court defined "political dynasties" in *Navarro v. Ermita* (2011),[16] which involved the constitutionality of the creation of the province of Dinagat Island, and argued that in the said case, now-retired Supreme Court Senior Associate Justice Antonio T. Carpio described political dynasties as a:

> "… phenomenon that concentrates political power and public resources within the control of a few families whose members alternately hold elective offices, deftly skirting term limits."

The group concluded that "A Supreme Court decision is part of the law of our country. Thus, the above definition of 'political dynasties' by the Supreme Court is a definition of the term under Philippine law."

Justice Carpio's definition in *Navarro v. Ermita* is simple, direct to the point, and makes complete sense. It expresses what is commonly known and even limits the scope of dynasties when compared to what the framers of our Constitution intended. Unfortunately, it is found in his dissent[17] to the decision in *Navarro v. Ermita,* not in the decision itself.

III. NATURE OF THE PROHIBITION OF POLITICAL DYNASTY

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[14] Mangunay, Kristine Felisse. Group invokes people's initiative vs dynasties. Philippine Daily Inquirer July 18, 2013. https://newsinfo.inquirer.net/447245/group-invokes-peoples-initiative-vs-dynasties.
[15] Tubeza, Philip. Disqualification cases filed vs Duterte, 5 other 'political dynasts'. Philippine Daily Inquirer, February 5, 2013.
https://newsinfo.inquirer.net/353129/disqualification-cases-filed-vs-duterte-6-members-of-prominent-political-dynasties.
[16] Rodolfo G. Navarro, et al. v. Executive Secretary Eduardo Ermita, et al. GR No. 180050 April 12, 2011.
[17] This is consistent with his separate opinion in Araullo, et al. v. Aquino III et al. GR No. 209287 February 3, 2015:
"Significantly, aside from the term 'savings,' there are other words found in several provisions of the Constitution which are defined by law. The terms 'contract,' 'capital' and 'political dynasty,' found in the following provisions of the Constitution, are defined or to be defined either by law or jurisprudence.
x-x-x
Article II, Sec. 26
Section 26. The State shall guarantee equal access to opportunities for public service and prohibit *political dynasties* as may be defined by law." (underscoring ours)

With due respect, the object sought to be accomplished by the intent of the Constitution to prohibit political dynasties is not merely a general principle; it is a self-executing provision. No legislation is usually required to effectuate a constitutional provision that is prohibitory in its language[18].

The function generally ascribed to Congress by Article II, Section 26 - "as *may* be defined by law" – is simply to exercise the option to define what political dynasties are. The Constitution, which itself prohibits political dynasties, may have left it to Congress to define the term.[19] Nevertheless, it did not give Congress the authority to make the prohibition dependent on its whims, nor did it delegate to Congress the authority or discretion to effectively emasculate the prohibition through its inaction. In truth, political dynasties have increased over the past 30 years, so there is no

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[18] 16 Am Jur 2d [Constitutional Law], Sec. 140.

[19] R.C.C. No. 90 Tuesday, September 23, 1986, supra: "MR. RODRIGO: Yes. Before I vote intelligently on this matter, I would like to ask a very important question. What is the definition of a dynasty? What degree of consanguinity or affinity is meant by dynasty? Does it refer only to father and son? Does it refer to brother and brother? Or an uncle with his nephew? Up to what degree?
MR. NOLLEDO: We are not deciding that question here but we are recommending to Congress that the scope of relationship shall be within the third degree of consanguinity or affinity. We leave it to Congress to determine this relationship.
MR. RODRIGO: That means up to a nephew? Is it by consanguinity or also by affinity?
MR. NOLLEDO: We are recommending consanguinity and affinity but it is up to Congress to determine.
MR. RODRIGO: Is it the fault of a nephew if he happens to have an uncle who is a public officer? Why penalize the nephew? He cannot choose his uncle.
MR. NOLLEDO: To meet the Commissioner's objection, Congress may limit up to the second degree. We are not deciding that relationship because Congress will conduct public hearings on this before a regulatory law may be passed by it.
MR. RODRIGO: I do not see in the provision that it is left to Congress to decide.
MR. NOLLEDO: That is why Commissioner Guingona recommended, if this provision should not be deleted, "AS MAY BE PROVIDED BY LAW." The committee is receptive of that suggestion.
MR. RODRIGO: But in the Commissioner's thinking, may in-laws be included in the prohibition?
MR. NOLLEDO: Yes. The Commissioner knows how family ties exist in the Philippines. Even fourth cousins are very close to each other.
MR. RODRIGO: Yes. But then those are exceptions. As a matter of fact, the general rule is that in-laws do not get along well together.
MR. NOLLEDO: Perhaps in domestic affairs.
MR. RODRIGO: But the thing is a person cannot choose the husband of his sister. Why should he be penalized for something not his fault?
MR. NOLLEDO: As stated, it is Congress that will determine the relationship.
MR. RODRIGO: Yes. But I would like to visualize how Congress will act. What if Congress decides it will be up to the third degree of consanguinity, meaning, uncle and nephew?
MR. NOLLEDO: Considering the close family ties that exist in our country, not as an exceptional situation but as a general rule, I would not blame Congress in providing for that effect.
MR. RODRIGO: Is it not unfair for a nephew to be penalized, to be disqualified merely because he has an uncle not of his choice.
MR. NOLLEDO: The Commissioner will notice that I consider this not prohibitory but regulatory. We have to cut the nexus after the permissible reelection. And when there are no more built-in advantages like warlordism, graft and corruption, etc., then that nephew can run again.
MR. RODRIGO: The argument was that the incumbent has money and, therefore, he can help his nephew or brother or son be elected. But there are many cases when, let us say, a municipal mayor, even a provincial governor, is not a rich man.
MR. NOLLEDO: And after holding office for two terms or more, he becomes very rich, and builds his own private army. Mr. Presiding Officer, political dynasty is really a social malady. And I disagree with Commissioner Monsod who says that the people are against the provision. In fact, in practically all forums wherein I appeared, the people overwhelmingly support the rule against political dynasty."

incentive for political dynasts in the legislature to support the passage of a law that would weaken their dominance and force them to compete to retain their office.[20]

IV. REMEDY FOR CONGRESSIONAL INACTION

Despite the consensus by the members of the 1986 Constitutional Commission[21] that Article II, Section 26 refers to Congress, it was argued by Atty. Alex Lacson, counsel of the civil society group that filed the petition in 2013 to disqualify some candidates for being "clear and obvious" political dynasts, that:

> "…the phrase is 'as may be defined by law' and not 'as may be defined by Congress.' Comelec's rules can be part of the law of the land. It doesn't necessarily mean that Congress will be the one to promulgate the rules."[22]

This argument is particularly compelling in light of Congress's inaction on the matter. This "power" to define political dynasties is ascribed to Comelec. It is actually wielded by the Supreme Court itself, whose decisions applying or interpreting the laws or the Constitution form a part of the legal system of the Philippines.[23] Indeed, Article 9 of the Civil Code states that no judge or court shall decline to render judgment by reason of the silence, obscurity, or insufficiency of the laws. This calls for the application of equity, which "fills the open spaces in the law,"[24] or "justice outside legality … applied only in the absence of, and never against, statutory law or judicial rules of procedure."[25]

Courts should be, and are, alert to enforce the provisions of the Constitution and guard against their infringement by legislative fiat or otherwise.[26] Since the Supreme Court recognizes that "the constitutional dictum to 'guarantee equal access to opportunities for public service' and (even more specifically and explicitly) to 'prohibit political dynasties' does not exist in a vacuum,"[27] the phrase ***"as may be defined by law"*** should not prevent the Court from enforcing, in a proper case, the constitutional prohibition

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[20] Mendoza, Ronald; Jaminola III Leonardo; Yap, Jurel. From Fat to Obese: Political Dynasties after the 2019 Midterm Elections (Ateneo School of Government Working Paper 19-013). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3449201.
[21] R.C.C. No. 90 Tuesday, September 23, 1986, supra.
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[24] Reyes v. Lim, GR No. 134241, August 11, 2003.
[25] Conte v. Commission on Audit, GR No. 116422 November 4, 1996.
[26] 16 Am Jur 2d [Constitutional Law], Id., Sec. 155.
[27] Social Weather Stations, etc. v. COMELEC, GR No. 208062, April 07, 2015.

against political dynasties. It would not be judicial legislation for the Court to do so, since it will simply apply the Constitution's prohibition of political dynasties ***"in a manner that would give effect to their letter and spirit, especially when the law is clear as to its intent and purpose."***[28]

After all, a constitutional provision should receive a fair and liberal construction, not only according to its letter, but also to its true spirit and the general purpose of its enactment, as the interpretation of constitutional principles must not be too literal.[29] The Constitution unequivocally establishes the state policy of prohibiting political dynasties to protect the national interest.

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