ENTERING THE CONSTITUTIONAL GATES WITH A TROJAN HORSE: CIRCUMVENTING THE PARADOX OF POLITICAL DYNASTIES*

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ABSTRACT

Political dynasties have persisted perniciously in the Philippine setting. Since its prohibition clashes with the right to political participation and the right to suffrage, creating a lasting prohibition remains a difficulty. While the 1987 Constitution provides a prohibition against political dynasties, the very definition of a political dynasty and the extent of the prohibition were left for Congress to expound upon through subsequent legislation. As this leads to a lack of a clear-cut definition of a political dynasty, there remains a persisting lack of justiciable rights. The only reasonable option, therefore, is for political dynasties to be legally defined in the Constitution. However, because 70% of our legislators belong to dynastic families, a paradox is realized: the government, which so desires dynasties to end, is largely composed of dynasties. Ergo, as with previous bills that have lingered on the tables for decades, such an approach is expected to hit the wall. This paper proposes a surrender of the legislative approach and a critique of the issue through an unconventional manner. Effectively, this paper argues that the issue of political dynasties must be regarded in connection with the proper upholding of socio-economic rights, in the context of a society where corruption and patronage persist because of the people weakened by *wanting to have their fill* —compromising their exercise of civil and political rights. By strengthening the enforcement of these rights, the persistence of political monopoly and their repercussions are effectively culled. Thus, we enter the

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* *Cite as* Maria Veronica Manalo, *Entering the Constitutional Gates with a Trojan Horse: Circumventing the Paradox of Political Dynasties,* 92 PHIL. L.J. 165 (2019).

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This author would like to thank Allan Chester Nadate, Hilton Lazo, Karina Garcia, and Rafael Vincent Manalo for their invaluable insights and assistance. Lastly, the author dedicates this work to Dr. Rafael A. Manalo and Emma M. Manalo, who inspired the author to pursue virtue and justice in the field of law.

> Constitutional gates with a *Trojan Horse*: by amending the Constitution from the inside to clearly define a political dynasty and to create justiciable rights, followed by a *Trojan Surprise*: by strengthening the enforcement of socio-economic rights which, as far-reaching and long-term as they are, can effectively promote civil and political rights to cut the extensions of corruption and patronage that allow the profusion of political dynasties.

> *"[The] Constitution must grow with the society it seeks to re-structure and march apace with the progress of the race, drawing from the vicissitudes of history the dynamism and vitality that will keep it, far from becoming a petrified rule, a pulsing, living law attuned to the heartbeat of the nation."*
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> —Panganiban, *J.*[1]

INTRODUCTION

Legislation and amendments are unquestionably rectifying, but the present that is lived has a paradox in existence: the government, which so desires dynasties to end, is largely composed of the same dynasties.[2]

To introduce the paradox, it must be remembered that the Constitution, as enunciated by Dean Vicente Sinco, is "the basic political creed of the nation [which] lays down the policies that government is bound to observe."[3] Originally, the provision in Article II of the Constitution prohibiting the existence of political dynasties is not regarded as self-executing, making imperative an enabling legislation.[4] Ergo, its implementation seems futile, as what Justice Isagani Cruz reiterated regarding

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[1] Tañada v. Angara, G.R. No. 118295, 272 SCRA 18, 23, May 2, 1997, *citing* ISAGANI CRUZ PHILIPPINE POLITICAL LAW, 13 (1995 ed.).

[2] Calalang v. Williams, 70 Phil. 726, 734 (1940). "The paradox lies in the fact that the apparent curtailment of liberty is precisely the very means of insuring its preservation."

[3] VICENTE SINCO, PHILIPPINE POLITICAL LAW: PRINCIPLES AND CONCEPTS 116 (1962).

[4] CONST. art. II, § 26; JOAQUIN BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 36 (2011 ed.).

several constitutional provisions that "appear to be meaningless platitudes on subjects considered significant, perhaps, only by those who insisted on their inclusion."[5]

Notwithstanding, the framers of the present Constitution have recognized the perennial problem posed by the prevalence of political dynasties in ensuring equal opportunities in running for political office.[6] The 1987 Constitution states that "the State shall guarantee equal access to opportunities for public service and prohibit political dynasties as may be defined by law."[7] It is evident therefore that there is an express mandate for Congress to enact a law that will prohibit and regulate the existence of dynasties in Philippine politics.[8] For the first time in Philippine history, political dynasties were recognized, albeit contentiously, as a threat to a true and living democracy.[9] However, despite such ideal embodied in the Constitution, no express solutions had been presented by the Constitutional Commission. Instead, the problem of how and when the law shall be passed was merely delegated to the Congress. Unfortunately, the intent of the framers of the present Constitution has failed to materialize since its inception. Indeed, this apparent inaction was likely an inevitable result of the contentious nature posited. Such was implied by the near-draw vote of the members of the Constitutional Commission of 1986 in arriving at the lexicon of the provision against dynasties[10]—reflecting the contentious nature of whether a dynasty is truly inimical or not. Hence, to address this, an in-depth critique of its existence will be made through this study.

The author of this paper argues that this is where the main paradox lies: the country is dubbed to be the political dynasty capital of the world with around 70% of the Congress[11] belonging to political families and 73 out of 80 provinces being controlled by such powerful families,[12] and yet the duty to dispel the existence of political dynasties remains within their discretion. It is akin to saying, "the paradox lies in the fact that the apparent curtailment of

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[5] ISAGANI CRUZ, PHILIPPINE POLITICAL LAW 81 (1995 ed.).

[6] III JOURNAL CONST. COMM'N 58 (Sept. 24, 1986).

[7] CONST. art. II, § 26.

[8] HECTOR DE LEON, TEXTBOOK ON THE PHILIPPINE CONSTITUTION 79 (1994 ed.).

[9] Edgar Lores, *Anti-Political Dynasty Bills*, The Society of Honor by Joe America, Sept. 18, 2012, *available at* http://thesocietyofhonor.blogspot.com/2012/09/anti- political-dynasty-bills.html/.

[10] III JOURNAL CONST. COMM'N 90 (Sept. 24, 1986).

[11] Teresa Tadem & Eduardo Tadem, *Political Dynasties in the Philippines: Persistent Patters, Perennial Problems*, 24(3) SOUTH EAST ASIA RES. 328–40 (2016).

[12] Andrew Masigan, *Evils of political dynasties,* BUSINESS WORLD, Nov. 11, 2018, *available at* https://www.bworldonline.com/evils-of-political-dynasties/.

liberty is precisely the very means of insuring its preservation," as enunciated by the Court through J. Laurel in *Calalang v. Williams*.[13]

Part I will address a dilemma of democratic rights by *firstly* resolving the long-standing debate of whether political dynasties are baneful or not. This chapter shall provide a legal lens through which the people can approach political dynasties—veering away from the notion of times past that elections can be utilized to circumvent our body of laws; *secondly*, by analyzing the dilemma of democratic rights—those that protect equal access to public service *vis-à-vis* rights of members of dynastic families to political participation—through delving deeper into the pseudo-aristocratic tendencies of our democratic society and its adverse effects on popular representation; and *thirdly*, by establishing the family as the center of a dynastic democracy through the perpetuation of the anarchy of political families.

Part II will critique the legislative route, which has proven insufficient for three long decades by laying down three main arguments: *firstly*, the inherent limitations of the present Constitution and its role in preserving the paradox of political dynasties will inherently impede any attempts to sufficient legislation; *secondly*, legislation as a legal approach in ensuring the creation of justiciable rights enforceable before the courts of justice is through futile and must be abandoned; *thirdly*, adjacent legal terrain can be an effective measure to which a legal framework in limiting the definition of political dynasties must be compared, and must therefore be explored, if definitions are to be effective.

Part III and IV, through an alternative lens, will then propose the surrender of the legislative approach and shall provide an unconventional legal framework in culling the extensions of corruption and patronage which have perpetrated the profusion of political monopoly.

Part III will seek to enter the Constitutional gates by proposing its amendment through the infusion of a self-executing provision clearly defining political dynasties. It goes further by adopting a counter-proposal effectively arguing against existing paradigms fixing the balance to the second degree of consanguinity or affinity. The author believes that this counter-proposal is not a better option, based on two points of arguments: *firstly*, by empowering Congress to redefine the limits of political

[13] Calalang v. Williams, 70 Phil. 726 (1940).

dynasties—by giving it discretion to extend the limitation to the third and fourth degree, whenever it deems necessary—the same result of 'hitting the wall' can be arrived at; *secondly*, by advocating that similar treatment of elective and appointive officials with regard to family relations on the basis of adjacent terrain is an effective argument in imposing limitations, should the right to participation be allegedly violated.

Part IV will then attempt to reveal the root cause of political dynasties by looking at it as an analysis of socio-economic rights. This chapter will propose that destitution—ever present in Philippine society—has become a fertile soil on which dynastic politicians spread their seeds of insinuation and manipulation. This further exacerbates the problems of vote-buying, political patronage, and improper use of suffrage for short-term gains. This posits that people cannot effectively exercise their civil and political rights if their socio-economic rights remain largely unfulfilled.

I. CONSTITUTIONAL DEMOCRATIC IDEALS AND THE PERSISTENCE OF DYNASTIES

Politics in a democratic society is characterized by free and fair elections on the basis of "merit, competence, and consent,"[14] wherein the electoral system allows for an "institutional arrangement for arriving at political decisions in which individuals acquire power to decide by means of competitive struggle for the people's vote."[15] At first glance, it is of no question how the Constitution protects this as a right. Yet, such ideal is contrasted with a democracy that allows for the proliferation of political dynasties, which propagates the thriving of political elites and the unequal

[14] Bryan Cranston, *Political Dynasties in a Democracy*, Paper Presentation at the 24th World Congress of Political Science – "Politics in a World of Inequality" International Political Science Association (July 23–28, 2016), at 3; Paschalis Arvanitidis & Nicholas Kyriazis, *Democracy and Public Choice in Classical Athens*, 19(2) PEACE ECON., PEACE SCI. & PUB. POL'Y 213–48 (2013); Mijat Damjanovic, *Discourses on Demo*cracy, 10(1) MEGATREND REV. 10 445–61 (2013); Serhat Kurt, *Conducting Democratic Evaluations Where Democratic Principles Are Not Always Practiced*, 8(17) J. OF MULTI-DISCIPLINARY EVALUATION 25–32 (2012); Joseph Siegle, *Overcoming Dilemmas of Democratisation: Protecting Civil Liberties and the Right to Democracy*, 81(4) NORDIC J. OF INT'L L. 471–506 (2012); Milan Svolik, *Learning to Love Democracy: Electoral Accountability and the Success of Democracy*, 57(3) AM. J. OF POL. SCI. 685–702 (2013).

[15] Cranston, *supra* note 14.

holding of political, economic, and social power by the oligarchic few[16]—dismissing to the margin the definition of what should have been a true democracy.

However, directly inhibiting candidacy *by name and blood* is not a low-hanging fruit. Political freedom is guaranteed by the Constitution. Ergo, it advocates and protects the civil and political liberties of the Filipino citizens in participating freely in the democratic processes and in ensuring equal access to public office. Such political rights were put side by side with the protection of civil liberties[17] and economic freedom,[18] thus:

> *Political rights*, on the other hand, are said to refer to the right to participate, directly or indirectly, in the establishment or administration of government, the right of suffrage, the right to hold public office, the right of petition and, in general, the rights appurtenant to citizenship vis-a-vis the management of government.[19]

From the foregoing, a clash arises: the right to vote freely is argued to be maliciously twisted by the persistence of political dynasties, yet the prohibition of its existence is negated by the right of persons to participate in elections and their equal access to public office. How then can one remedy such an apparent clash between rights, in lieu of the persistence of political dynasties?

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[16] GAETANO MOSCA, THE RULING CLASS (ELEMENTI DI SCIENZA POLITICA) (1939); ROBERT MICHELS, POLITICAL PARTIES: A SOCIOLOGICAL STUDY OF THE OLIGARCHIC TENDENCIES OF MODERN DEMOCRACY (1999).

[17] *See also* Joaquin Bernas, Sponsorship Remarks, I RECORD CONST. COMM'N 674, July 17, 1986 *available at* http://www.officialgazette.gov.ph/1986/07/17/r-c-c-no-32-thursday-july-17-1986/ [hereinafter "Bernas, Sponsorhip Remarks"]. "To *civil liberties* belong freedom from arbitrary confinement, inviolability of the domicile, freedom from arbitrary searches and seizures, privacy of correspondence, freedom of movement, free exercise of religion and free choices involving family relations."

[18] *See also* Bernas, Sponsorship Remarks. "*Economic freedom* covers everything that comes under the heading of "economic self- determination," free pursuit of economic activity; in general, free choice of profession, free competition and free disposal of property. It should be emphasized, however, that in the hierarchy of freedom under existing jurisprudence, economic freedom ranks the lowest and it is the freedom whose reasonable invasion by the state is easily allowed."

[19] Simon v. Comm'n on Human Rights, G.R. No. 100150, 229 SCRA 117, 133, (1994), *citing* Anthony v. Burrow, 129 F. 783, 789 (1904). (Emphasis supplied.). *See also* Bernas, Sponsorship Remarks.

A. Blurring the Line Between Good and Evil: Are Dynasties Truly Pernicious?

During the deliberations of the Constitutional Commission on Article II of the Constitution, Commissioner Jose Nolledo proposed a provision prohibiting political dynasties as part and parcel of the Constitution's declaration of principles and policies.[20] Such was originally worded as "The State shall broaden opportunities to public office and prohibit political dynasties."[21] During the deliberations, Commissioner Nolledo recognized the need to make the proposed provision "more palatable to the Members of the Commission,"[22] most likely hinting at the relentless opposition that successfully resulted to the dismissal of the proposition during the Commission's deliberations[23] for amendments to Article X, Section 2[24] of the Draft Constitution. Such proposal was forwarded by Commissioner Vicente Foz. He advocated the principle that such prohibition is necessary in order to ensure that no political family can monopolize political power allowing such power to be dispersed to the Filipino people dispersed as much as possible to the Filipino people by drawing from the experience of Marcos' regime.

Commissioner Foz thus said:

> The basic proposition is that in a democracy such as ours, nobody is indispensable as far as public service is concerned. It is true that certain persons may possess the necessary capabilities and special qualities to perform good deeds in the public office, *but that does not rule out the possibility that others may have similar capabilities to serve the public good*. So we cannot say that a relative of an incumbent is deserving or succeeding his relative because of his special qualities and his capabilities or qualifications. The idea of a prohibition against the rise of political dynasties is essentially *to prevent one family from controlling political power* as against the *democratic idea that political power should be dispersed as much as possible among our people*. And the evils brought about by political dynasties are so well-known to us, because they happened in the recent political past.[25]

Further, in a discussion on the prohibition of political dynasties in the local government which was previously denied (Article X), Commissioner Nolledo relayed his observation:

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[20] III JOURNAL CONST. COMM'N 90 (Sept. 24, 1986).
[21] III JOURNAL CONST. COMM'N 85 (Sept. 18, 1986).
[22] IV RECORD CONST. COMM'N 90 (Sept. 23, 1986).
[23] III RECORD CONST. COMM'N 53 (Aug. 11, 1986).
[24] *Id.*
[25] III JOURNAL CONST. COMM'N 58 (Sept. 24, 1986). (Emphasis supplied.)

> It seems to me that the resolution asking for a provision in the Constitution to prohibit political dynasties is very popular outside but does not seem to enjoy the same popularity inside the Constitutional Commission.
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> This provision will widen political opportunities contrary to the opinion of Commissioner [Christian] Monsod because I feel that when we talk of equal political opportunities, we have also to talk more or less of equal conditions under which candidates run for public office. And with this provision, Mr. Presiding Officer, *we do away with political monopoly*.[26]

Despite the persistence of clashing rights as aforementioned, the framers have recognized firsthand the pertinent need to limit the right to participate, so as to limit the persistence of *political monopoly* and the thriving of elites.

1. What Cannot Be Done Directly Cannot Be Done Indirectly: Circumventing the Provision Limiting Re-election of Public Officers through Family Politics

Commissioner Nolledo emphasized that without a prohibition banning political dynasties, the rule against further re-election may easily be circumvented by politicians from dynastic families by having immediate family members or close relatives, to whom such incumbent exercises a sufficient degree of influence to whom such incumbent exercises a sufficient degree of influence run for public office as they await the turn of the tide, or in case they choose to retire. In this case, for example, the "son becomes a subaltern, subjecting himself to the will of the father who has apparently retired."[27]

In great detail, Commissioner Nolledo argued:

> I am talking of this in terms of the scope of the term "political dynasty" by saying that a prohibition against political dynasty, Mr. Presiding Officer, is designed to avoid circumvention of the provision limiting reelection of public officers to give a chance to others in running for public office. I would like to be specific, Mr.

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[26] III JOURNAL CONST. COMM'N 90 (Sept. 24, 1986). (Emphasis supplied.)
[27] III RECORD CONST. COMM'N 90 (Sept. 23, 1986).

> Presiding Officer. In the case of the local government officials like governors, for example, we allow them to have two reelections.[28]
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> If he is reelected twice, he can no longer run for reelection in which case, he will ask his close relative–a son or daughter or a brother or a sister–to run for public office under his patronage. And in this case, we circumvent the rule against further reelection because it may also happen that his younger son may run for governor and he is still strong enough to exercise moral as well as effective influence upon the son. And the son becomes a subaltern, subjecting himself to the will of the father who was apparently retired. And so, in the case of a President, for example, under the provisions of the Constitution, the President cannot run for reelection. So if the incumbent President cannot run for reelection, she can ask, for example, Noynoy Aquino–assuming that he is already of age–to run for President, thereby negating the laudable purpose for prohibiting reelection. That seems to me to be the meaning of political dynasty although Congress may still widen the meaning of the term.[29]

Through these events, an argument that tips the balance in favor of opposing dynasties arises: politics by consanguinity or affinity, though posing no direct threats subject to evidence, can be used as a tool to perpetuate authority within the walls of a familial elite, whether or not terms limits are imposed.

2. The Opposition to the Prohibition

On the other hand, arguments that do not favor the prohibition of dynasties under the cloak of freedom and rights have also arisen. Commissioner Monsod, in opposition to the inclusion of a prohibition, emphasized the people's power to assert their choice through the exercise of their right to suffrage, *viz*:

> This body voted down a similar proposal on prohibition of political dynasties in the Article on Local Governments, and here we are giving exactly the same reasons. We are indulging in the same kind of debate on the same issue. Mr. Presiding Officer, as we said before, the assumption here seems to be that we are

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[28] CONST. art. X, § 8. "The term of office of elective local officials, except *barangay* officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected."

[29] IV RECORD CONST. COMM'N 90 (Sept. 23, 1986).

> underestimating our people in their right to choose; we are trying to put a prescreening mechanism so that public office is not after all accessible to all because we are going to prohibit or exclude certain people from running for public office. And my point is, we should have a little more faith. We should give our people full choice. Let them run and let the people decide. That is the essence of suffrage. This body has already made a decision on the same point, and secondly, for the reasons I have stated, I do not think we should curtail the right of the people to a free choice on who their political leader should be.[30]

While it is true that political dynasties may provide an avenue for corruption, protecting the rights of those vying for public office and the right to vote freely doubtfully weigh heavier inasmuch as truth and evidence are concerned. Thus, at this point in the critical analysis, it seems that the nature of political dynasties remains contentious: the claimed deleterious consequences of its persistence appears only nailed on a recent past, as if becoming, simply said, a presumption of malice.

Without sufficient evidence of the perniciousness of political dynasties, how can its prohibition, which limits the rights of citizens, supersede existing rights to participation? The contentions blaze anew.

3. Tug-of-War: The Dilemma of Democratic Rights

There is a clash of rights in the proposition to prohibit political dynasties. On the one hand, proponents for the passage of such law argue that the mere existence of political dynasties prevent equal access to public service, while on the other hand, members of dynastic families contend that their right to participate in the electoral process must be equally balanced with the rights of those who do not come from political clans.

Several studies have been conducted by academic scholars on the prevalence of political families, many of which have pinpointed the common requisites for a successful political dynasty, namely "name recognition, the value of a political education by virtue of growing up in a political household, and an established political network of friends, supporters, and donors."[31]

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[30] *Id.*

[31] Cranston *supra* note 14, at 3, *citing* Robert Biersack, Paul S. Hernson, & Clyde Wilcox, *Seeds for Success: Early Money in Congressional Elections*, 18(4) LEGISLATIVE STUD. Q. 535–51 (1993); DAVID T. CANON, ACTORS, ATHLETES, AND ASTRONAUTS: POLITICAL AMATEURS IN THE UNITED STATES (1990); Alfred Clubok, Norman M. Wilensky, & Forrest J. Berghorn,

However, it was also argued by Mendoza et al. that "wealth and popularity"[32] are not enough to establish long-standing dynastic families,[33] for a victorious political campaign is equally dependent on "the creation of a political network capable of transforming wealth and influence into votes."[34] Mergers and affiliations between members of differing dynastic families have proven effective in consolidating actual votes come election day.[35] It provides an avenue for dynastic politicians to thresh out more resources and increase their network and influence in the political arena.[36] More often than not, politicians who have served for longer periods of time usually have relatives succeeding them or running as well for public office.[37] Legal scholars who have studied the pervasiveness of political dynasties in the United States Congress from its beginnings in 1789 have noted succinctly that "dynastic political power is self-perpetuating in that a positive exogenous shock to a person's political power has persistent effects through posterior dynastic attainment."[38] In stating so, they have further emphasized the point that in politics, "power begets power."[39]

The pertinent question now becomes: are political dynasties inherently evil and detrimental to Philippine society?

Family Relationships, Congressional Recruitment, and Political Modernization, 31(4) THE J. OF POL. 1036 (1969); Ernesto Dal Bo, Pedro Dal Bo & Jason Snyder, *Political Dynasties* 76(1) THE REV. OF ECON. STUD. 115–142 (2009); Brian Feinstein, *The Dynasty Advantage: Family Ties in Congressional Elections*, 35(4) LEGISLATIVE STUD. 575 (2010); John Ferejohn, *On the Decline of Competition in Congressional Elections*, 71(1) AM. POL. SCI. REV. 172 (1977); Donald Philip Green & Jonathan S. Krasno, *Salvation for the Spendthrift Incumbent: Reestimating the Effects of Campaign Spending in House Elections*, 32 AM. J. OF POL. SCI. 884 (1988); Donn Kurtz, *Inheriting a Political Career: The Justices of the United States and Louisiana Supreme Courts*, 32(4) SOC. SCI. J. 441 (1995); Hilde Van Liefferinge, Carl Devos, & Kristof Steyvers, *What's in a Name? Current Effects of Family Politicization on Legislative Candidates' Career Start in Belgium*, 49 SOC. SCI. J. 220 (2012).

[32] Ronald Mendoza, Edsel Beja Jr., Victor Venida & David Yap, *Inequality in democracy: Insights from an Empirical Analysis of Political Dynasties in the 15th Philippine Congress*, 33(2) PHIL. POL. SCI. J. 132–145 (2012).

[33] *Id.*

[34] *Id., citing* Shiela Coronel, *The Seven Ms of Dynasty Building*, Philippine Center for Investigative Journalism, Mar. 14, 2007, *available at* http://pcij.org/stories/the-seven-ms-of-dynasty-building/.

[35] *Id., citing* John Sidel, *Philippine Politics in Town, District, and Province: Bossism in Cavite and Cebu*, 56(4) J. OF ASIAN STUD. , 58, 947–966 (1997).

[36] *Id.*

[37] Ernesto Dal Bo, Pedro Dal Bo & Jason Snyder, *Political Dynasties*, 76(1) REV. OF ECON. STUD. 115 (2009).

[38] *Id.*

[39] *Id.* at 4.

The answer is unclear. There have been studies that show the negative effects of dynastic rulers in the propagation of corruption,[40] abuse of power,[41] violence and intimidation.[42] The presence of such dynastic officials in government illustrates the "enduring power of pedigree in a society that supposedly apportions democratic authority based on merit,"[43] the proliferation of "pseudo-aristocratic tendencies"[44] in a democratic society, and the "imperfections in popular representation."[45] The argument mainly focusing on providing an equal playing field where other disadvantaged political players can also engage proactively in the electoral process of running for a public office. Arguing from this viewpoint, it has been continuously reinforced that a democratic state is marked by "political equality and majority rule."[46]

On the other hand, there are also claims that political dynasties are not inherently evil and may actually be beneficial to the economy as it could lead to the completion of long-term projects, infrastructures, and campaign promises.[47] Such a circumstance is attributed to the nature of elections in the Philippines, i.e. when politicians wins, it is usually their preference to complete projects credited to their own name, rather than continuing those in the name of a defeated incumbent or politician from another political party.[48] The emphasis of this contrarian view is the sustenance of long-term projects for the community. However, this is assuming that the dynastic politicians are not self-serving and abusive political leaders.

More often than not, despite the possibility of sustainability, political dynasties still pose an obstacle for other contenders to enter the political arena

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[40] ALFRED MCCOY, 'AN ANARCHY OF FAMILIES': THE HISTORIOGRAPHY OF STATE AND FAMILY IN THE PHILIPPINES (1991).

[41] *Id.*

[42] BRIAN FEGAN, ENTREPRENEURS IN VOTES AND VIOLENCE: THREE GENERATIONS OF A PEASANT POLITICAL FAMILY (1994), *citing* ALFRED MCCOY, 'AN ANARCHY OF FAMILIES': THE HISTORIOGRAPHY OF STATE AND FAMILY IN THE PHILIPPINES (1991).

[43] Cranston, *supra* note 14.

[44] *Id.*

[45] *Id.*

[46] Ben Saunders, *Democracy, Political Equality & Majority Rule*, 121 CHI. J. 148–77 (2010).

[47] Eron Guardo, Rufina Rosaroso, Fredrich Rama, Rolan Batac & Gerome Lasala, *Political Dynasty in Public Governance: A Close Encounter with the Cebuanos*, 4(2) ASIA PAC. J. OF MULTIDISCIPLINARY RES. 31 (2009).

[48] *Id.* at 29–36, *citing* Mendoza, *supra* note 32.

and participate in public service, thereby affecting popular representation and active citizenship.[49]

B. The Family as the Center of a Dynastic Democracy

The 1987 Constitution, as the country's foundational political creed, has placed utmost importance in the concept of the Filipino family as reflected in Article II, Section 12, which states that the "State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution." As much as the Filipino family is essential to the composition of Philippine society, it is also the very foundation of "Filipino political dynasties."[50] Such elite families continue their oligarchic rule through the monopolization of economic resources.[51] Even if families are basic units of society, they must not be divided from other families lest they be a tool to perpetrate familial interest and corruption.

1. An Anarchy of Political Families

In McCoy's study *An Anarchy of Families,*[52] he observes the exponential meaning of the word "family" in the political arena by recognizing the pattern of political behavior coming from political dynasties in holding onto political office and transforming it into lasting family assets for generations:

> Many politicians try to transform their electoral offices into lasting family assets, building on what Filipinos call a 'political dynasty.' Once entrenched, influential politicians often work to bequeath power and position to their children, in effect seeking to transform the public office that they have won into a private legacy for their family.[53]

Mendoza et al. explained that association with a family name is the measure by which political dynasties are established.[54] "Kinship relations" become even more significant in cases of intermarriages between and among the members of dynastic political families.[55] Research data focusing on the

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[49] *Id.*

[50] Tadem et al, *supra* note 11.

[51] GARY HAWES, THE PHILIPPINE STATE AND THE MARCOS REGIME: THE POLITICS OF EXPORT (1987).

[52] MCCOY, *supra* note 40.

[53] *Id.* at 24–25 (1991).

[54] Mendoza et al, *supra* note 32, at 137.

[55] *Id.*

composition of the 15th Philippine Congress shows that 77% of such legislators aged 26 to 40 years old belonging to the category of young legislators come from political families.[56]

With such, Mendoza et al. further notes that:

> *[P]olitical dynasties seem to win by larger election margins than non- dynastic candidates* [...] of at least five percentage points. Such large margins of victory are seen to be critical because political dynasties need to demonstrate that they enjoy sufficient support from their constituents and, more importantly, dispel or invalidate insinuations of vote-rigging and other illicit election-related activities.
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> In what follows, we focus on the more extensive dynasty definition given our main interest in the political and kinship connections that may influence local governance. Are political dynasties richer? [...] *Dynastic legislators are, on average, PhP10 million wealthier than non-dynastic legislators.*[57]

Their study also used quantitative data showing that "measures of poverty incidence, poverty gap, and poverty severity are consistently higher in districts with dynastic legislators compared to other areas."[58] Based on the data results from the study comparing the net worth of dynastic and non-dynastic politicians as well as the per capita income, poverty incidence, gap and severity in the different districts of the country, it is sufficient to say that in Philippine politics, more often than not, there is a positive correlation between poverty and dynastic rule. [59]

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[56] *Id.* at 38.

[57] *Id.* (Emphasis supplied.)

[58] *Id.* at 40. This data focused only on the 15th Philippine Congress. The income variable used in the study is the 2009 GDP per capita.

[59] Mendoza et al, *supra* note 32. Data in the research as reflected below:

	Per capita income	*Poverty Incidence*	*Poverty Gap*	*Poverty Severity*
Dynastic	PHP 23,275.43	24.5	6.18	2.31
Non-dynastic	PHP 26,872.38	18.95	4.93	1.86
Mean difference	PHP 3,596.95	5.2	1.25	0.45
Test statistic	3.565	2.606	2.107	1.794

This data focused only on the 15th Philippine Congress. The income variable used in the study is the 2009 GDP per capita.

The results show that political dynasties have the wealth, power, and resources to win elections. Regardless of their competence, they are generally favored by the people as evidenced by the larger election margins that separate their votes far from those received by candidates who come from non-dynastic families. Hence, incompetence in running the affairs of their district can reasonably explain the positive correlation between poverty and dynastic rule.

With this in mind, the contentious nature becomes clearer: political dynasties are more likely to be noxious than not, and it is therefore consistent with the spirit of the Constitution to prohibit its profusion. Hence, the balance is tipped, and it seems that it is in favor of prohibiting dynasties than for allowing its persistence based on both experience and evidence. There is therefore no question that dynasties must be stopped.

Yet, another stumbling block is seen: the Constitutional prohibition is qualified by the phrase "as may be defined by law."[60] This implies that although dynasties must be prohibited, a proactive approach by Congress is necessary in order to create justiciable rights enforceable before the courts of law. Due to this limitation in verbal construction, both the Commission on Elections (COMELEC) and the Supreme Court of the Philippines have persistently refrained from enforcing such provision in the absence of clear legislation defining political dynasties.[61] Clearly, a law must be passed.

II. THE LEGISLATIVE ROUTE: A CRITIQUE OF THE FRAMEWORK

A. Hitting the Wall: A Three Decade Long Insufficient Legislation

The legislative approach is not a new suggestion. Several legislators in the past have filed bills in Congress that sought to define political dynasties and the manner by which they shall be banned.[62] Several attempts were made both in the House of Representatives and in the Senate. However, such

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[60] CONST. art. II, § 26.

[61] Ina Reformina, *SC Junks 2nd Petition vs Political Dynasties*, ABS-CBN News, Feb. 5, 2013, *available at* https://news.abs-cbn.com/nation/02/05/13/sc-junks-2nd-petition-vs-political-dynasties.

[62] Jan Danelle Patindol, *28 Years and Still Hoping for the Anti-Political Dynasty Law*, Business World Online, Aug. 19, 2015, *available at* http://www.bworldonlie.com/content/php?section=Opinion&title=28-years-and-stillhoping-for-the-anti-political-dynasty-law&id=113725.

proposals never materialized into law.[63] In 2011, Senator Miriam Defensor-Santiago filed Senate Bill 2649 entitled The Anti-Political Dynasty Act,[64] which aims to "give force and effect to Article II, Section 26 of the 1987 Constitution,"[65] by levelling the playing field and opening the political arena to "persons who are equally qualified to aspire on even terms with those from ruling politically dominant families."[66] The bill notes that public office has become the exclusive domain of influential families and clans that are well-entrenched in Philippine politics, and that the "monopoly of political power and public resources by such families affects the citizenry at the local and national levels."[67] Similarly, it is also reported that at least three other proposals were filed in the Senate—such as Loren Legarda's Senate Bill 1258 (2016),[68] Franklin Drilon's Senate Bill 230 (2016),[69] and Lacson's Senate Bill 49 (2016)[70]—all of which are either pending or were not even passed at the committee level in Senate.

The most recent bill filed in Congress is Senate Bill No. 1765 or the Anti-Political Dynasty Act of 2018.[71] One of the lead proponents of this bill is Senator Joseph Victor Ejercito, who is a staunch advocate for the passage of the bill despite being a member himself of a political family.[72] Ejercito posits that there must be a "mechanism providing equal opportunities to persons aspiring for public office to ensure a level-playing field for elected government officials."[73] While he believes that politicians from political families are not be inherently evil—partially resounding Monsod—he recognizes that there is, nevertheless, a need to curtail the dominance of political dynasties in public office:

> Dynasties weaken the competition in the political system, resulting in less access from alternative leaders and youth leaders to be part of the political system. In many jurisdictions, political dynasties run uncontested or contested only by other dynasties.

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[63] *Id.*

[64] S. No. 2649, 15th Cong., 1st Sess. (2011). The Anti-Political Dynasty Act.

[65] CONST. art. II, § 26.

[66] S. No. 2649, 15th Cong., 1st Sess. (2011). The Anti-Political Dynasty Act.

[67] *Id.*

[68] S. No. 1258, 17th Cong., 1st Sess. (2016). The Anti-Political Dynasty Act of 2016.

[69] S. No. 230, 17th Cong., 1st Sess. (2016). The Anti-Political Dynasty Act.

[70] S. No. 49, 17th Cong., 1st Sess. (2016). The Anti-Political Dynasty Act of 2016.

[71] S. No. 1765, 17th Cong., 2nd Sess. (2018). The Anti-Political Dynasty Act of 2018.

[72] Hannah Torregoza, *Ejercito Pushes for Passage of Anti-Dynasty Bill,* Manila Bulletin, July 25, 2018, *available at* https://news.mb.com.ph/2018/07/25/ejercito-pushes-for-passage-of-anti-dynasty-bill/.

[73] *Id.*

> Any monopoly of power is harmful to society and may cause violence.
>
> The Philippines is known for the prevalence of members of ruling families in public office.
>
> While close family ties are a distinct attribute of a Filipino family, the extended family system has found its pernicious effects in the political arena where public office has become the *exclusive domain of influential families and clans*.
>
> Such families have become so well-entrenched in Philippine politics they have monopolized political power and public resources at *all levels* of government.
>
> * * *
>
> By particularly defining political dynasty challengers with valuable policy ideas will be given a chance to hold public office. Taking this into consideration, an *Anti-Political Dynasty Bill* should be institutionalized to encourage the Filipino people to vote for candidates not only based on their family name, but more on platform, proposed policies, and advocacies.[74]

Senator Francis Pangilinan, who has a clear view of the existing paradox, argues that the inaction of Congress has made the legislators "complicit in the creation of this phenomenon"[75]. He notes that more than 30 years have passed since the people ratified the 1987 Constitution, yet there is still no law defining political dynasties. [76]

In his sponsorship speech for Senate Bill No. 1765, Senator Pangilinan said:

> We have to stress here that *the question of whether or not dynasties are good for the country is immaterial* because the Constitution mandates that the Congress must define by law political dynasty that it should be, ought to be prohibited.
>
> Patronage and corruption, fraud and violence dominate the existing political system that allow political dynasties to thrive.

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[74] *Id.* (Emphasis supplied.)
[75] *Id.*
[76] *Id.*

> Let us be the Congress that will put an end to this exclusionary type of political leadership and open the electoral playing field to more of our citizens.[77]

Senate Bill No. 1765 defined political dynasties as the "concentration, consolidation, and/or perpetuation of public office and political powers by persons related to one another within the second degree of consanguinity or affinity."[78] The bill prohibits the running for political office of the incumbent politician's *legal or common law spouse, full or half-blood siblings, legitimate, illegitimate, or adopted children, parents, and the spouses of these second-degree relatives* to succeed or replace the incumbent or run simultaneously with the incumbent within the same province, legislative district, city or municipality, or within the same barangay or barangays within the same legislative district.[79] This covers incumbents in the party-list system and those running for any position in the national level or in the local level as barangay captain, mayor, governor or district representative in any part of the country.[80] However, with the existing paradox, the Senate Bill, along with its definition of a political dynasty, may trail the same path as the previous bills proposed.

1. Chartering the Constitutional Prohibition: Its Inherent Limitation

This is not to say, however, that defining a political dynasty is wholly pointless. In fact, the lack of an "exact legal definition"[81] of a dynasty was the main argument forwarded by members of the Constitution Commission in an almost favorable opposition to its inclusion in the Draft Constitution.[82]

In his study on political dynasties, Jayson Fernandez noted that family relationship was the primary basis for the prohibition. Furthermore, he pointed out several unanswered queries that were left hanging by the 1986 Constitutional Commission for the Congress alone to resolve:

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[77] *Id.* (Emphasis supplied.)

[78] S. No. 1765, 17th Cong., 2nd Sess. (2018). The Anti-Political Dynasty Act of 2018.

[79] *Id.*; Camille Elemia, *13 senators sign panel report approving bill versus dynasties,* Rappler, Mar. 22, 2018, *available at* https://www.rappler.com/nation/198725-senators-committee-report-anti-political-dynasty-bill.

[80] *Id.*

[81] Jayson Fernandez, *Family Relationship as Basis for Disqualification to Hold Public Office: A Framework for A Law Prohibiting Political Dynasties*, 40 ATENEO L.J. 109–10 (1996).

[82] 4 CONST. COMM'N 90 (Sept. 23, 1986).

- Should the prohibition cover only the successive holding of public office, or the simultaneous holding of public office by members of the same family, or both?

- Should the prohibited situations be confined to family relationship among public officers on the local level or should they include those relationships involving national officers as well?

- Up to what degree of relationship should the prohibition cover?

- Should the operation of law be limited to relationships that exist only within a particular political unit?[83]

By leaving this to Congress, the prohibition on political dynasties in the 1987 Constitution merely wore the intention of making consanguinity and affinity a basis for disqualification, with the Commission fully knowing that it would not be enough. Clearly, a legal definition of a political dynasty is necessary—it is the proposed basis which is limited to consanguinity and affinity that is evidently insufficient and must be augmented.

This is where the main paradox lies. As earlier mentioned —and worth reiterating—the country is dubbed to be the political dynasty capital of the world with around 70% of the Congress[84] belonging to political families and 73 out of 80 provinces being controlled by such powerful families,[85] and yet the duty to dispel the existence of political dynasties remains within their discretion. It is akin to saying, "the paradox lies in the fact that the apparent curtailment of liberty is precisely the very means of insuring its preservation," as enunciated by the Court through J. Laurel in *Calalang v. Williams*.[86]

B. Effect of an Insufficient Legal Definition: Lack of Justiciable Rights

The commonly cited reason for such non-interference by COMELEC and the Supreme Court on the matter of political dynasties is the lack of a definition for the concept in Philippine law.[87] However, it is

[83] *Id.* at 109–10.
[84] Tadem et al, *supra* note 11.
[85] Masigan, *supra* note 12.
[86] Calalang v. Williams, 70 Phil. 726 (1940).
[87] Reformina, *supra* note 61.

important to note that the Civil Code, particularly Article 8 thereof, provides that "Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines."[88] In the dissenting opinion of Justice Carpio as enunciated in the recent case of *Navarro v. Executive Secretary*,[89] he succinctly defined political dynasties as "a phenomenon that concentrates political power and public resources within the control of few families whose members alternately hold elective offices, deftly skirting term limits."[90]

Justice Carpio further adds that such prohibition was intended by the framers of the Constitution to guarantee equal access to public service, *viz*:

> The 1987 Constitution is *not neutral* on the scourge of dynastic politics [...] Its exclusionary effect on access to public service led the framers of the 1987 Constitution to mandate that the State guarantee equal access to opportunities for public service and that Congress prohibit political dynasties x x x. To the Filipino people's misfortune, Congress' non-implementation of this constitutional directive is now aggravated by this Court's wantonly loose translation of the Constitution's apportionment standard of proportional representation. Thus, instead of ensuring compliance with the Constitution's mandate prohibiting political dynasties, this Court has turned complicit to local politicians predilection for dynastic entrenchment.[91]

Arguably, the definition solely comes from Justice Carpio's dissenting opinion in the case of *Navarro v. Executive Secretary*,[92] and is therefore not binding. Nearly 33 years since the enactment of the 1987 Constitution, such prohibition on political dynasties remains a decorative embroidery on the highest law of the land—noble but meaningless.[93]

As aforementioned, although legislation intending to prohibit political dynasties or a clear definition of its scope based on consanguinity and affinity is not sufficient, it is not a vain measure. Without a margin dictating limitations to public office, there are no rights on which the court can base its decisions and hence, there are no justiciable rights. For citizens who wish their rights guaranteed, guaranteed inaction is truly disappointing.

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[88] CIVIL CODE, art. 8.

[89] Navarro v. Executive Secretary, G.R. No. 180050, 648 SCRA 400 (2011).

[90] *Id* (Carpio, *J., dissenting).*

[91] *Id* at 470. (Emphasis supplied.)

[92] *Id.*

[93] ISAGANI CRUZ & CARLO CRUZ, PHILIPPINE POLITICAL LAW 81 (2014).

C. The Adjacent Terrain: Legal Framework for Related Legislation

1. Preserving the Integrity of the Civil Service System: Nepotism in Appointed Officials

Laws against nepotism are excellent measures to which the provisions limiting political dynasties must be compared. Executive Order (E.O.) 292, Section 59 provides the following definition of nepotism:

> All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned or controlled corporations, made in favor of a relative of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited.
>
> As used in this Section, the word "relative" and members of the family referred to are those related within the third degree either of consanguinity or of affinity.[94]

Nepotism is prohibited by Republic Act No. 2260 or the Civil Service Act of 1959,[95] in line with the Constitution's mandate in Article IX(B), which states that "[a]ppointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and, except to positions which are policy-determining, primarily confidential, or highly technical, by competitive examination."[96] It is claimed that political dynasties are an "extension of nepotism"[97] and that political dynasties are evidence of a "culture of nepotism that often puts family interests ahead of public service."[98]

In *Civil Service Commission v. Dacoycoy*,[99] the Supreme Court reiterated the intent behind the law in prohibiting nepotistic appointments:

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[94] REV. ADM. CODE (1987), Book V, § 59.

[95] Rep. Act No. 2260 (1959), § 30. The Civil Service Act of 1959.

[96] CONST. art. IX-B, § 2(2).

[97] Alejandro Roces, *Political dynasty worst form of nepotism,* PhilStar Global, Mar. 10, 2001, *available at* https://www.philstar.com/opinion/2001/03/10/101579/political-dynasty-worst-form-nepotism-roses-and-thorns-alejandro-r-roces.

[98] Erin Cook, *Philippines bids to take the family out of politics,* Asia Times, Mar. 23, 2018, *available at* http://www.atimes.com/article/taking-family-politics-philippines/.

[99] Civil Service Commission v. Dacoycoy, G.R. No. 135805, 306 SCRA 425, 439 (1999).

> *Nepotism is one pernicious evil impeding the civil service and the efficiency of its personnel.* In *Debulgado*,[100] we stressed that [T]the [sic] basic purpose or objective of the prohibition against nepotism also strongly indicates that the prohibition was intended to be a comprehensive one. The Court was unwilling to restrict and limit the scope of the prohibition which is textually very broad and comprehensive. If not within the exceptions, *it is a form of corruption that must be nipped in the bud or bated whenever or wherever it raises its ugly head.* As we said in an earlier case what we need now is not only to punish the wrongdoers or reward the outstanding civil servants, but also to plug the hidden gaps and potholes of corruption as well as to insist on strict compliance with existing legal procedures in order to abate any occasion for graft or circumvention of the law.[101]

Apart from prohibiting this form of corruption, laws against nepotism also perfectly delineate fame from merit. Drawing from the earlier case of *Debulgado v. Civil Service Commission*,[102] the Court held that the prohibition of nepotism in the Civil Service Act applies *regardless of the merit or qualifications* of the proposed appointee. It was enacted "precisely to take out of the discretion of the appointing and recommending authority the matter of appointing or recommending for appointment of a relative."[103]

However, the Court ruled, citing the cases of *Teologo v. Civil Service Commission* and *Meram v. Edralin*, that the purpose of the civil service rules is to "ensure that all appointments and other personnel actions in the civil service should be based on merit and fitness and should never depend on how close or intimate an appointee is to the appointing power."[104]

Thus, it had to make certain sacrifices when prohibiting nepotistic appointments, regardless of the merit or competence of the appointee, for the greater good of preserving the integrity of public service. Hence, while the need to prohibit appointment based on consanguinity and affinity is recognized even in the presence of merit, appointments must remain merit-based. The author argues that appointments must therefore be based on merit

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[100] Debulgado v. Civil Service Commission, G.R. No. 111471, 237 SCRA 184 (1994).

[101] Civil Service Commission v. Dacoycoy, G.R. No. 135805, 306 SCRA 425, 439 (1999).

[102] Debulgado v. Civil Service Commission, G.R. No. 111471, 237 SCRA 184. (1994).

[103] Debulgado v. Civil Service Commission, G.R. No. 111471, 237 SCRA 184 (1994).

[104] Teologo v. Civil Service Commission, G.R. No. 92103, 19 SCRA 238, 251 (1990), *citing* Meram v. Edralin, G.R. No. 71228, 154 SCRA 238 (1987).

and on merit alone, which can be an excellent framework for legislation on political dynasties as well.

2. Delving into the Right to Political Participation as Enshrined in International Law

The "demise of authoritarian regimes once thought to be a permanent fixture of the political landscape"[105] has been a pattern observed in different regimes around the world, following the widespread democratization of countries in the 1980s and early 1990s.[106]

Now, governments worldwide give prime importance to suffrage and political participation as reflected by "fair electoral laws, equal campaigning opportunities, fair polling and honest tabulation of ballots."[107] This development was solidified after the "codification of political rights in international and regional human rights treaties accompanied by democratization at the national level."[108]

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[105] Gregory H. Fox, *The Right to Political Participation in International Law*, 17 YALE J. INT'L L. 540 (1992).

[106] SAMUEL HUNTINGTON, THE THIRD WAVE: DEMOCRATIZATION IN THE LATE TWENTIETH CENTURY 1 (1991).

[107] Fox, *supra* note 105 *citing* Freedom House Survey Team, *Freedom in the World: Political Rights & Civil Liberties 1990-1991*, at 47, 49 (1991), *available at* https://freedomhouse.org/report-types/freedom-world.

[108] Fox, *supra* note 105 *citing* International Covenant on Civil and Political Rights, art. 25, Dec. 19, 1986,, 999 U.N.T.S. 171, 179; *see also* African Charter on Human and Peoples' Rights, art. 13(1), June 26, 1981, O.A.U. Doc. CAB/LEGI67/3/Rev. 5, 9 I.L.M. 58, 61 (1981). "Every citizen shall have the right to freely participate in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law"; American Convention on Human Rights, art. 23(1)(b), Nov. 22, 1969, 36 OAS T.S. 1, OAE/ser. L/V/II.23, doc. 21, rev. 6, 9 I.L.M. 673, 682 (1970). Every citizen shall enjoy right "to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters"; International Convention on the Elimination of all Forms of Racial Discrimination, ,art. 5(c), Mar. 7, 1966, 660 U.N.T.S. 195, 220. Signatories undertake to eliminate racial discrimination in enjoyment of rights "to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service"; Convention on the Political Rights of Women, art. 1 Mar. 31, 1953, , 27 U.S.T. 1909, 1911, 193 U.N.T.S. 135, 13. "Women shall be entitled to vote in all elections on equal terms with men, without any discrimination"; Protocol (No. 1) to the Convention for the Protection of Human Rights and Fundamental Freedoms art. 3, Mar. 20, 1952, E.T.S. No. 9, 213 U.N.T.S. 262, 264. Signatories have the obligation "to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature"; Universal Declaration of Human Rights [hereinafter "UDHR"], art. 21, G.A. Res. 217 (1I) A, U.N. Doc. A/810, at 75 (1948). "Everyone has the right to take part in the government of his country directly or through freely chosen representatives."

For instance, some international laws which codified the right to political participation, equal suffrage, and equal access to public service include the following: the International Covenant on Civil and Political Rights (ICCPR),[109] African Charter on Human and People's Rights (the Banjul Charter),[110] American Convention on Human Rights (Pact of San José),[111] International Convention on the Elimination of all Forms of Racial Discrimination (ICEAFRD),[112] Convention on the Political Rights of Women (CPRW),[113] Protocol (No.1) to the Convention for the Protection of Human Rights and Fundamental Freedoms (CPHRFF),[114] and Universal Declaration of Human Rights (UDHR),[115] among many others.[116]

In the case of the Philippines, it is a signatory[117] to two of the abovementioned international conventions—the UDHR[118] and the ICCPR.[119] Article 21 of the UDHR emphasizes the right of people to take part in government, the importance of the right to *equal access to public service in his country*, and the expression of the will of the people through periodic and genuine elections:

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

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[109] International Covenant on Civil and Political Rights [hereinafter "ICCPR"], Dec 15, 1966, 999 U.N.T.S. 171.

[110] African Charter on Human and Peoples' Rights, June 27, 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982).

[111] American Convention on Human Rights, Costa Rica, Nov. 22, 1969.

[112] International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, 660 U.N.T.S. 195.

[113] Convention on the Political Rights of Women, Dec. 20, 1952, A/RES/640(VII).

[114] Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Mar. 20, 1952, E.T.S. No. 9.

[115] Universal Declaration of Human Rights, Dec. 10, 1948, 217 A (III).

[116] *Supra* note 108.

[117] Fernandez, *supra* note 81 at 130–31.

[118] *Supra* note 115.

[119] *Supra* note 109.

Article 25 of the ICCPR made such aforementioned right binding to member states of the United Nations, *viz*:

> Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2[120] and without unreasonable restrictions:
>
> (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
>
> (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
>
> (c) To have access, on general terms of equality, to public service in his country.[121]

Thus, for a free, authentic, and genuine election to take place, it is of paramount importance that equal access to public office, non-monopolization of mass media and resources by incumbents during campaign season, and emphasis on the principles of a representative government adhering to true democratic principles, are ensured.[122] On a similar note, these laws prove that limiting the right to participation in lieu of prohibiting political dynasties is not at all trivial, and may in fact be accused of violating such aforementioned laws. It is therefore not difficult to see partly how legislation has stumbled in these terms: laws tending to prohibit political dynasties are impeded not only because the government is largely dynastic but also because these bills can possibly be unconstitutional.

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[120] Art. 2 of the ICCPR states:

"1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant."

[121] ICCPR, art. 25, Dec. 16, 1966, 999 U.N.T.S. 171.

[122] Fox, *supra* note 105.

3. Addressing the Loopholes of the 1987 Constitution: Insufficiency of Legislation: Must We Continue?

While pushing for legislation as a noble objective, it is unfortunate that such method continues to be ineffective in addressing the prohibition on political dynasties. It is similar to hitting a concrete wall, possessing, if any, only a small chance of infiltration. The author argues that it is about time to amend the Constitution in order to address the futility of some of its provisions, particularly that concerning the prohibition of political dynasties. The Constitution must adapt to the changing times in accordance with the needs of its people.[123] The intent of the framers of the present Constitution has failed to materialize for nearly 33 years now since its inception. This is a disheartening plight considering the spirit behind the emphasis on the promotion of social justice and welfare of the people. One way by which social justice was envisioned by the framers was through the equalization of opportunities to public service, *viz*:

> COMMISSIONER GARCIA. [Social justice] is the distribution of wealth and power. I mention this precisely because one of the insistent points throughout this whole Article is that if we were to have justice, there will have to be a redistribution of not only economic wealth but also political power. What we intended to say when we spoke of power is that political power must also be in the hands of the majority so that they can help shape the future that affect their lives.[124]

III. BRIDGING THE GAP: AMENDING THE CONSTITUTION

A. Infusion of a Self-Executing Provision in the Constitution

1. Clearly Defining Political Dynasties to Create Justiciable Rights

In articulating the need for constitutional reform, Chief Justice Reynato Puno emphasized on the need to strike a proper balance between the right of the people to elect their representatives—exemplifying the right to

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[123] Tañada v. Angara, G.R. No. 118295, 272 SCRA 18, 23, May 2, 1997, *citing* ISAGANI CRUZ, PHILIPPINE POLITICAL LAW 13 (1995).

[124] II RECORD CONST. COMM'N 620.

political participation through suffrage—and the right of the candidates from political dynasties in running for public office, *viz.*[125]

> Unbeknown to many, we were involved in the most difficult task of constitutional engineering.[126] This is the task of striking the proper balance between two contending policies: on one hand, the right of the sovereign people to elect their representatives; on the other, the right of the members of a certain class of citizenry to participate in an election. To strike the correct balance in the clash of these two rights, requires a 20-20 vision, a vision that is guided by the past and a vision that can penetrate the veil of the future. I like to believe that in prohibiting political dynasties[127] to include their members up to the *second degree of consanguinity and affinity*,[128] we were able to fix the right balance between the right of the people to elect and the right of people to be elected. Let me stress further that we did not fix an unchangeable balance but rather we installed a balance that can be moved according to the necessities of the time. For the moment, the balance is fixed at the second degree of relationship by consanguinity and affinity.[129] But if the balance needs to be moved to include the third and fourth degree of relationship by consanguinity and affinity, we have empowered Congress to do so.[130]

The author agrees with Chief Justice Puno in amending the Constitution to give effect to a self-executing provision in the law—a clear loophole in the 1987 Constitution.

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[125] Reynato S. Puno, *Political Dynasties Must Go*, 91 PHIL. L.J. 2, (2018). Speech delivered on the vote on the regulation of political dynasties in the session of the Consultative Committee to review the 1987 Constitution at the Philippine International Convention Center, Mar. 14, 2018.

[126] Exec. Order No. 10 (2016), § 1. "There is hereby created a Consultative Committee under the Office of the President, which shall study, conduct consultations, and review the provisions of the 1987 Constitution including, but not limited to, the provisions on the structure and powers of the government, local governance, and economic policies."

[127] CONST. art. II, § 26. "The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law." What a *political dynasty* is is still undefined to this day.

[128] *See* CIVIL CODE, art. 966. This includes the spouse of the candidate, their children and grandchildren, parents and parents-in-law, and siblings, including brothers-in-law and sisters-in-law.

[129] *See* S. Nos. 1258, 1137, 897, 230 & 49 *and* H. Nos. 3861, 912, 911 & 825, 17th Cong., 1st Sess. Almost all pending bills prohibiting political dynasties cover the second degree of consanguinity and affinity.

[130] *See* S. Nos. 1688, 17th Cong., 2nd Sess., the only pending bill prohibiting political dynasties covering the third degree of consanguinity and affinity.

However, the author respectfully argues that limiting the self-executing provision to the second degree of consanguinity is not the better option. It would be a delicate matter—reinforcing the political dynasty *paradox*[131]—if the discretion to "move the balance to include the third and fourth degree of relationship by consanguinity and affinity" would be once again left to the hands of Congress. Instead, the author proposes that both elective and appointive officials, despite their differences, be treated similarly regarding prohibitions in relation to kinship, considering the fact that both the ministerial and discretionary actions of elective and appointive officials affect the life, liberty, and property of the people. This creates a greater balance in the governance of our nation, instead of leaving it in the hands of the Congress again.

2. Improving Accountability Mechanisms of Public Officers

A long string of jurisprudence[132] provides that accountability of public officers is necessary in order to ensure the "preservation of the public's faith and confidence in government."[133]

Accountability in public office is a constitutionally-enshrined principle[134] as seen in Article XI, Section 1 of the 1987 Constitution, which states that "Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."[135] This must be taken as "working standards by all in the public service."[136] It is imperative then that no public official is allowed in

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[131]The *paradox* being the government that desires dynasties to end is largely composed of dynasties. *See* Calalang v. Williams, 70 Phil. 726, 734 (1940).

[132] *See also* Floresca v. Quetulio, 82 Phil. 128 (1948); City Mayor of Zamboanga v. Argana, G.R. No. 80270, 182 SCRA 785 (1990); Office of the Ombudsman v. Espina, G.R. No. 213500, 820 SCRA 451 (2017); Duque v. Veloso, G.R. No. 196201, 673 SCRA 676 (2012); Government Serv. Ins. Sys. v. Mayordomo, G.R. No. 191218, 649 SCRA 667 (2011); Government Serv. Ins. Sys. v. Manalo, G.R. No. 208979, 804 SCRA 61 (2016); Office of the Ombudsman-Mindanao v. Martel, G.R. No. 221134, 819 SCRA 131 (2017); Navarro v. Office of the Ombudsman, G.R. No. 210128, 802 SCRA 46 (2016); Japson v. Civil Serv. Comm'n, G.R. No. 189479, 648 SCRA 532 (2011).

[133] Office of the Ombudsman-Mindanao v. Martel, G.R. No. 221134, 819 SCRA 131, 148 (2017), J. Mendoza, *citing* Medina v. Comm'n on Audit, 567 Phil. 649, 665 (2008).

[134] Government Serv. Ins. Sys. v. Mayordomo, G.R. No. 191218, 649 SCRA 667, 688 (2011).

[135] CONST. art. XI, § 1.

[136] Government Serv. Ins. Sys. v. Mayordomo, G.R. No. 191218, 649 SCRA 667, 688 (2011), *citing* Japson v. Civil Serv. Comm'n, G.R. No. 189479, 648, SCRA 532, 545 (2011);

any manner to "subordinate public interest to personal comfort and convenience."[137] After all, the life of a government official must be devoted in the service of the Filipino people. It entails a responsibility of going against even his own interest—to wrongly accumulate wealth and use his position to increase local and national influence. His position does not serve any particular family, but he must always keep in mind the general welfare of the people.[138]

However, one of the detrimental effects of political dynasties is the erosion of proper checks and balances in the public official's administration which has led to graft and corruption, especially in cases wherein both the superior and the subordinate are of the same family relationship.[139]

The Supreme Court has repeatedly emphasized that the law must "plug the hidden gaps and potholes of corruption as well as to insist on strict compliance with existing legal procedures in order to abate any occasion for graft or circumvention of the law."[140] In order to do so, public officials must at all times remember the guiding pillars by which they would be measured in their service—that of utmost responsibility, integrity, loyalty, efficiency, patriotism and justice, and that they must always lead modest lives.[141] It is part of the public officer's duty to "faithfully discharge to the best of his abilities the duties of the position he will hold."[142] The Court in the case of *City Mayor of Zamboanga v. Argana* declared the importance of accountability in public service, thus:

> *Public office is a public trust.* [. . .] Upon appointment to a public office, an officer or employee is required to take his oath of office whereby he solemnly swears to support and defend the Constitution, bear true faith and allegiance to the same; obey the laws, legal orders and decrees promulgated by the duly constituted authorities; and faithfully discharge to the best of his ability the duties of the position he will hold.
>
> Yet, time and again, we hear of public servants acting in utter defiance of the principles enshrined in the Constitution and in complete disregard of what they swore in the name of God before

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see also Civil Serv. Comm'n v. Cortez, G.R. No. 155732, 430 SCRA 593 (2004), *citing* Bautista v. Negado, 108 Phil. 283, 289 (1960).

137 Floresca v. Quetulio, 82 Phil. 128, 129 (1948).

138 Calalang v. Williams, 70 Phil. 726 (1940).

139 Tadem et al, *supra* note 11.

140 City Mayor of Zamboanga v. Argana, G.R. No. 80270, 182 SCRA 785, 786 (1990).

141 CONST. art. XI, § 1.

142 City Mayor of Zamboanga v. Argana, G.R. No. 80270, 182 SCRA 785, 786 (1990).

> assuming their posts in the public service. Consequently, the people's trust and faith in the government has slowly eroded. There in [sic] very little respect and confidence left.
>
> This in turn has resulted in a widespread feeling of disappointment and dissatisfaction in the government machinery. Gone are the days when one of the shining ambitions of a college graduate was to have a career in the civil service; when working in the government meant self-fulfillment. Now, young and talented graduates shy away from the public service which is unfortunately perceived to be unattractive and totally lacking in luster. It is only when those in the government sector serve with the highest degree of responsibility, integrity, loyalty and efficiency and act in accordance with the tenets of the Constitution can such lost respect and confidence be regained. This case is typical of what a public servant should not be.[143]

The issue of political dynasties also gives insight into one of the most challenging problems which the 1987 Constitution—or any constitution for that matter—has to dutifully engage and put an end to: *widespread graft and corruption in government.* This pervasive problem is perpetuated even more by the entrenchment of political dynasties as evidenced by multitudinous cases involving violations of Republic Act 3019 or the *Anti-Graft and Corrupt Practices Act.*[144]

The author of this paper believes that solving the problem of political dynasties lies not only in amending the Constitution. There is also a need to look into other constitutional provisions that may be amended, and make stricter laws for public officials to faithfully abide by, in order to destroy one of the baneful effects present in the proliferation of political dynasties—*erosion of public accountability.*

The Court in the case of *Civil Liberties Union v. Executive Secretary* stated that:

> A foolproof yardstick in constitutional construction is the intention underlying the provision under consideration. Thus, it has been held that the Court in construing a Constitution *should bear in mind the object sought to be accomplished by its adoption, and the evils, if any,*

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[143] *Id.* (Emphasis supplied.)

[144] Marcos v. Sandiganbayan, G.R. No. 127073, 285 SCRA 504 (1998); Marcos v. Sandiganbayan, G.R. No. 116027, Oct. 24, 2001; Binay v. Sandiganbayan, G.R. No. 120681, 316 SCRA 65 (1999).

> *sought to be prevented or remedied.* A doubtful provision will be examined in the light of the history of the times, and the condition and circumstances under which the Constitution was framed. *The object is to ascertain the reason which induced the framers of the Constitution to enact the particular provision and the purpose sought to be accomplished thereby*, in order to construe the whole as to make the words consonant to that reason and calculated to effect that purpose.[145]

The author would like to argue that this approach, albeit resounding a hymn of *auld lang syne*,[146] maintains its effectiveness as a measure in promoting accountability and limiting the profusion of dynasties.

Thus, any amendment to the Constitution or any legislation yet to be law must be read in light of the purpose of holding public officials accountable—after all, public office is a public trust. This is the recommended 'yardstick'[147] of the author that legislators can utilize in the process of policy-making and in crafting the more detailed intricacies of the law through exhaustive deliberation to embody the sovereign will.

3. Resolving the Clash: Rights vis-à-vis Obligations

Borderless implementation of rights, in loss of synchrony with other existing rights, will inherently breed a clash between rights and obligations. Of relevance to the issue of political dynasties is the clash between the following: the right of the candidate to participate freely[148] versus the obligation of the public servant to serve effectively,[149] versus the right of the citizens to be effectively served.[150] There is therefore a need to consider either balancing limitations between rights *vis-à-vis* obligations or imposing supremacy of one over the other.

The Court in the case of *Metropolitan Manila Development Authority v. Viron Transportation Co., Inc.*[151] enunciated the important legal principle of *salus populi est superema lex*—the welfare of the people is the supreme law—in emphasizing that the general welfare can supersede private individual rights.

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[145] Civil Liberties Union v. Exec. Sec'y, G.R. No. 83896, 194 SCRA 317, 325 (1991), *citing* Maxwell vs. Dow, 176 U.S. 581, 20 Sup. Ct. 448, 44 L. Ed. 597. (Emphasis supplied.)

[146] *Auld lang syne*, which means "Times long past."

[147] Civil Liberties Union v. Exec. Sec'y, G.R. No. 83896, 194 SCRA 317, 325 (1991), *citing* Maxwell vs. Dow, 176 U.S. 581, 20 Sup. Ct. 448, 44 L. Ed. 597. (Emphasis supplied.)

[148] CONST. art. II, § 26.

[149] CONST. art. XI, § 1.

[150] CONST. art. XIII, § 1.

[151] Metropolitan Manila Dev. Auth. v. Viron Transp. Co., Inc., G.R. No. 170656, 530 SCRA 341, 362 (2007).

Justice Carpio-Morales masterfully wrote:

> Police power is the plenary power vested in the legislature to make, ordain, and establish wholesome and reasonable laws, statutes and ordinances, not repugnant to the Constitution, for the good and welfare of the people. This power to prescribe regulations to promote the health, morals, education, good order or safety, and general welfare of the people flows from the recognition that s*alus populi est suprema lex*—the welfare of the people is the supreme law.[152]

The Court's decision shows that there are instances wherein the State, in weighing private rights *vis-à-vis* the general welfare, considers the latter as supreme. From this legal lens, the author of this paper advances the idea that the rights of the candidates from dynastic families can be imposed with limitations in the promotion of the public good. This legal lens is applied side by side with the constitutional precept of accountability as discussed previously in this paper. *Public office is a public trust*[153] is the legal basis for the obligation of public officials to serve the people "with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."[154]

The author recognizes the paradigm of comparing rights *vis-à-vis* other rights, but she also posits the idea that such comparison cannot be fully realized without looking into the relationship of rights *vis-à-vis* obligations: the right of the candidate to run for public office, and the public officer's obligation to serve the Filipino people with maximum efficiency and accountability. This legal lens can be utilized in limiting certain prerogatives enjoyed by a certain class or group of people in order to faithfully give justice to the time-honored principle of *salus populi est suprema lex*—the welfare of the people is the supreme law.[155]

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[152] *Id.* (Emphasis supplied.)

[153] CONST. art. XI, § 1.

[154] *Id.*

[155] Metropolitan Manila Dev. Auth. v. Viron Transp. Co., Inc., G.R. No. 170656, 530 SCRA 341, 362 (2007).

IV. THE TROJAN SURPRISE: ATTACKING THE ROOT CAUSE

A. Political Dynasties are Not Per Se the Real Problem: A Closer Analysis

Social justice is the heart of the 1987 Constitution.[156] In contrast with the 1935 and 1973 Constitutions, the 1987 Constitution emphasized the importance of social justice by dedicating an entire article of the law to its enforcement and promotion concerning labor, agrarian and natural resources reform, urban land reform and housing, health, women, and human rights.[157]

Cecilia Muñoz-Palma, the President of the 1986 Constitutional Commission masterfully articulated this principle:

> For the first time in the history of constitution-making in our country, we set forth in clear and positive terms in the Preamble which is the beacon light of the new Charter, the noble goal to establish a just and humane society. This must be so because at present we have to admit that there are so few with so much and so many with so little. We uphold the Rule of Law where no man is above the law, and we adhere to the principles of truth, justice, freedom, equality, love and peace. Yes, for the first time and possibly this is the first Constitution where "love" is enshrined. This is most significant at this period in our national life when the nation is bleeding under the forces of hatred and violence, brothers fighting against brothers, Filipinos torturing and killing their own countrymen. Without love, there can be no peace.
>
> The new Charter establishes a republican democratic form of government with three branches each independent and coequal of each affording a check and balance of powers. Sovereignty resides in the people.
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> * * *
>
> It is a document which in clear and in unmistakable terms reaches out to the underprivileged, the paupers, the sick, the elderly, disabled, veterans and other sectors of society. It is a document which opens an expanded improved way of life for the farmers, the workers, fishermen, the rank and file of those in service in the

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[156] V RECORD CONST. COMM'N 106 (1986).
[157] CONST. art. XIII. (Emphasis supplied.)

> government. And that is why I say that the Article on *Social Justice is the heart of the new Charter*.[158]

One of the previous approaches involved directly prohibiting political dynasties, which are regarded as a source of power and a mockery of democracy. Yet, it was the vote of the people that put dynasties in place, by exercising their right to suffrage as protected by the Constitution. From this chain of events, one can recognize that social conditions are the root cause of the problem. People, due to unsatisfied economic rights, fail to properly exercise their civil and political rights, to the extent that politicians can use their unfulfilled needs as a form of manipulative entry.

Through this, the author provides a novel approach to the problem of political dynasties: to end the profusion of political monopoly, the socio-economic rights of citizens must be strengthened and ensured. People of wealth and influence will always exist, but their positions are gained only through the exercise of sovereign will. Ergo, it is more realistic to satisfy legally what is hindering the better implementation of economic rights which will greatly influence how the people will vote, than to try and limit the power of the wealthy few. With *a stomach that is full*, they will vote who are deserving.

B. Ensuring the Proper Exercise of Civil and Political Rights through the Enforcement of the Citizen's Socio-Economic Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR), a treaty ratified by the Philippines, imposes minimum core obligations which must be complied with even during times of economic turbulence. Diane Desierto elucidated on the government's duty to satisfy the economic rights of its citizens, *viz.*:

> Resource constraints cannot adequately justify a State's failure to comply with the minimum core content of ICESCR rights. The Committee explains that the scarcity of resources at hand does not license States to neglect their duties relevant to the protection of rights.
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> * * *

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158 V RECORD CONST. COMM'N 106; *see also* Atong Paglaum, Inc. v. Comm'n on Elections, G.R. No. 203766, 694 SCRA 477 (2013) (Sereno, *C.J., concurring and dissenting*). (Emphasis supplied.)

> The minimum essential levels of ICESCR rights should not be seen as arbitrarily predetermined static quantities. These minimum levels are determined mainly by the States themselves in partnership with the Committee and in conjunction with the regular reportage process under the Convention.[159]

Desierto discussed the seven core obligations of State parties, namely: the right to adequate housing,[160] the right to education,[161] the right to adequate food,[162] the right to the highest attainable standard of health,[163] the right to water,[164] the right to work,[165] and the right to social security[166]—all of which must be accorded full respect and recognition even during times of economic crises.[167]

In the Philippines, these economic rights are not fully satisfied.[168] *The neglect of such rights became the rotting cause of the deeper perpetuation of political dynasties.* Ensuring these seven economic rights is to be a stronger blade than limiting dynasties based on definition, since the latter can easily be circumvented, but the former is indirect and far-reaching.

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[159] Diane Desierto, *Growth versus Austerity: Protecting, Respecting, and Fulfilling International Economic and Social Rights During Economic Crises*, 57 ATENEO L.J. 373 (2012).

[160] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing under art. 11 (1) of the ICESCR*, ¶ 8, U.N. Doc. E/1992/23 (Dec. 23, 1991).

[161] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 13: The Right to Education under art. 13 of the ICESCR*, ¶ 47, U.N. Doc. E/C. 12/1999/10 (Aug. 12, 1999).

[162] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 12: The Right to Adequate Food under art. 11 of the ICESCR*, ¶ 28, U.N. Doc. E/1992/23 (Dec. 23, 1991).

[163] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 4: The Right to the Highest Attainable Standard of Health under art. 12 of the ICESCR*, ¶ 4, U.N. Doc. E/1992/23 (Dec. 23, 1991).

[164] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 4: The Right to Water under arts. 11 and 12 of the ICESCR*, ¶ 41, U.N. Doc. E/1992/23, (Dec. 23, 1991).

[165] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 4: The Right to Work under art. 13 of the ICESCR*, ¶ 19, U.N. Doc. E/1992/23, (Dec. 23, 1991).

[166] U.N. Committee on Economic, Social, and Cultural Rights, *General Comment No. 4: The Right to Adequate Housing under art. 9 of the ICESCR*, ¶ 2, U.N. Doc. E/1992/23, (Dec. 23, 1991).

[167] *Supra* note 159.

[168] Mahabub Hossain, Fe Gascon & Esther B. Marciano, *Income Distribution and Poverty in Rural Philippines: Insights from Repeat Village Study*, 35(52) ECON. & POL. WEEKLY, 4650–56; KARIN SCHELZIG, POVERTY IN THE PHILIPPINES: INCOME, ASSETS, AND ACCESS 1 (2005); Arsenio Balisacan, *Agricultural Growth, Landlessness, Off-Farm Employment, and Rural Poverty in the Philippines*, 41(3) ECONOMIC DEVELOPMENT AND CULTURAL CHANGE, 533–62.

1. Effects of the neglect of the People's Socio-Economic Rights

Human rights were distinctly categorized by the International Bill on Human Rights[169] into two categories, *viz.* (1) political and civil rights and (2) economic and social rights.[170]

Political and civil rights concern itself with the protection of the citizen against arbitrary state action[171] and mainly concerns itself with the promotion of man's freedoms involving "participation in the political process, freedom of assembly and association, the right to vote, the right of equal access to office, the freedom to participate in the formation of public opinion, and also the non-establishment of religion or what is popularly called the separation of church and state."[172]

Economic and social rights, however, are subjected to further legislative action, necessitating positive state action in order for said rights to be fully realized and experienced by the citizenry.[173] Well-renowned constitutionalist Fr. Joaquin Bernas emphasized that such rights include "economic self-determination, free pursuit of economic activity, free choice of profession, free competition and free disposal of property."[174] Economic and social rights have clearly been relegated to the background in comparison to the first-generation civil and political rights,[175] as they continue to rest on the discretion of governments depending on the resources and priorities of each country,[176] especially in the Philippines.[177]

As opined by scholar Raphael Pangalangan:

> The dual character of social and economic rights is encapsulated in the clash of Philippine municipal law with Philippine international obligation. Effectively, the Philippines

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[169] UN General Assembly, International Bill of Human Rights, A/RES/217 (III)A-E (Dec. 10, 1948).

[170] Noel Ostrea, *Human Rights in the Philippines: Ideal and Realities*, 36 ATENEO L.J. 116 (1992).

[171] *Id.*

[172] BERNAS, *supra* note 4.

[173] *Id.*

[174] Raphael Pangalangan, *Enforcing Liberty and Prosperity through the Courts of Law: A Shift in Legal Thought from Juridification to Judicialization*, at 9, (Mar. 23, 2018), *available at* https://forlibertyandprosperity.files.wordpress.com/2018/03/flp-dissertation-contest-first-place.pdf.

[175] *Id.*

[176] Ostrea, *supra* note 170, at 117.

[177] Pangalangan, supra note 174, at 6.

> wears two hats: it exalts social and economic rights in the realm of international law, yet relegates them in the municipal legal system.[178]

The people can only rise from destitution and become capable of offering their highest contribution to society when they are equipped with the right tools that would unleash their "entrepreneurial genius," thereby creating avenues to maximize resources and create wealth.[179] In supporting its citizens' path to prosperity, the government is equally responsible for inspiring its people to share their wealth and resources to the rest of the society of which they are a part.[180]

This message was reinforced in the message of Chief Justice Artemio V. Panganiban during the opening luncheon of the 12th General Assembly of the ASEAN Law Association. The renowned "Renaissance Jurist of the 21st Century" espoused his core judicial philosophy of: (1) safeguarding the liberty and (2) nurturing the prosperity of the people[181] in his term as 21st Chief Justice of the Supreme Court of the Philippines. The latter's vision includes both liberty and prosperity advocating "freedom and food, democracy and development, ethics and economics, integrity and investment."[182] His words ring true to this very day: "Humans need both justice and jobs; freedom and food; ethics and economics; peace and development; liberty and prosperity; these twin beacons must always go together; one is useless without the other."[183]

The duty to ensure that those needs are met belongs to the government. The Constitution mandates such in Article II, Section 4: "The prime duty of the Government is to serve and protect the people."[184] This is

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[178] *Id.*

[179] Artemio V. Panganiban, *Unleashing Entrepreneurial Ingenuity,* Speech delivered at the 12th General Assembly of the ASEAN Law Ass'n, at the Makati Shangri-La Hotel, Makati City, *available at* https://cjpanganiban.com/2015/02/26/unleashing-entrepreneurial-ingenuity/ (Feb. 26, 2013).

[180] *Id.*

[181] Artemio V. Panganiban, *Twin Beacons for the Judiciary,* Speech delivered at Georgetown Law Center, Washington, available at http://pcij.org/blog/wp-docs/PanganibanTwinBeacons.pdf/ (May 17, 2007).

[182] Artemio V. Panganiban, *Visionary Leadership By Example*, 9th National Ayala Young Leaders Congress, Speech delivered at the San Miguel Corporation Management Training Center, Alfonso, Cavite, available at https://cjpanganiban.com/2007/02/07/visionary-leadership-by-example-2/ (Feb. 7, 2007).

[183] *Supra* note 179.

[184] CONST. art. II, § 4.

imperative to the establishment of a "government of the people, by the people, [and] for the people."[185]

Intuitively, the government's neglect of these socio-economic rights, as previously mentioned, can twist the suffrage of the people who, by *wanting to have their fill*, will with no hesitation, receive bribery in the guise of tokens and immediate relief. Ensuring a more efficient implementation of these rights can prevent even the risk of this occurrence—effectively culling what makes corruption so pervasive in political dynasties.

2. Socio-Economic Rights vis-à-vis Civil and Political Rights

In differing between civil and political rights and social and economic rights, it is clear that the former carries more weight and significance than the latter, because the latter is reliant on the wealth, resources, and most of all, the discretion of every country.

Despite the enunciation in the UDHR[186] that all men have the right to a standard of living adequate for the health and well-being of himself and of his family, which includes their means to daily sustenance, such as food, clothing, housing, medical care, necessary social services, and security of tenure in their employment,[187] such is dependent on positive state action for its materialization. Recent developments have characterized the State as the "promoter and protector of economic and social well-being,"[188] in that:

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of employment, sickness, disability, widowhood, old-age or other lack of livelihood in circumstances beyond his control.[189]

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[185] Abraham Lincoln, *The Gettysburg Address*, Speech delivered at the official dedication ceremony for the National Cemetery of Gettysburg Pennsylvania (Nov. 19, 1863); *see also* Richard Epstein, *Direct Democracy: Government of the People, by the People, and for the People,* 34 HARV. J.L. & PUB. POL'Y 819 (2011).

[186] UN General Assembly, Universal Declaration of Human Rights, Dec. 10, 1948, 217 A (III).

[187] *Id.,* art. 1.

[188] Ostrea, *supra* note 170, at 118.

[189] UN General Assembly, Universal Declaration of Human Rights, Dec. 10, 1948, 217 A (III).

Given that human rights encompass both liberty and prosperity,[190] it is problematic to witness civil and political rights set in the foreground while economic and social rights are underplayed. The dichotomy is observably crystal clear in human rights discourse and practice where the bias against the enforcement of economic and social rights is manifest.[191]

The Truth and Reconciliation Commission of South Africa Report succinctly elucidated its observation on such dichotomy, noting that consequences of human rights violations are not only deaths, detentions, and disappearances, but also lives withered away through enforced poverty and other kinds of deprivation. This reinforces the importance of social and economic rights in the sphere of human rights.[192]

Human rights can only be fully realized with the observance of its three cardinal principles, namely: (a) the principle of self-determination; (b) the equality of all human beings before the law; and (c) the principle of non-discrimination, which is a corollary to the first principle.[193] It is important to note that even the *Pacem in Terris*[194] emphasized man's social and economic rights:

> Beginning our discussion of the rights of man, we see that every man has the right to life, to bodily integrity, and to the *means* which are necessary and suitable for the proper development of life. These are primarily food, clothing, shelter, rest, medical care, and finally the necessary social services. Therefore, a human being also has the right to security in cases of sickness, inability to work, widowhood, old age, unemployment, or in any case in which he is

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[190] Ostrea, *supra* note 170, at 116.

[191] "While in some ways a gross oversimplification, the implicit politics of human rights discourse and practice that is embedded in these oppositions has long been the subject of criticism," Dustin Sharp, *Addressing Economic Violence in Times of Transition: Towards a Positive-Peace Paradigm for Transitional Justice*, 35 FORDHAM INT'L L.J. 780 (2012); *see*, e.g., David Kennedy, *The International Human Rights Movement: Part of the Problem?*, 15 HARV. HUM. RTS. J. 101, 109–10 (2002); Makau Wa Mutua, *The Ideology of Human Rights*, 36 VAJ. INT'L L. 589, 604–07 (1996).

[192] Dustin Sharp, *Addressing Economic Violence in Times of Transition: Towards a Positive-Peace Paradigm for Transitional Justice*, 35 FORDHAM INT'L L.J. 780 (2012), *citing* The Truth and Reconciliation Commission, Truth and Reconciliation Commission of South Africa Report (1999).

[193] Ostrea, *supra* note 170, at 119.

[194] Pacem in *Terris*, with a literal translation of "peace on earth", is a papal encyclical issued by Pope John XXIII on Apr. 11, 1963 on the rights and obligations of individuals and of the state, as well as the proper relations between states.

> deprived of the means of the means of subsistence through no fault of his own.[195]

The right of man to be economically secure in his livelihood, in his housing, in medical assistance, in education, and in his daily sustenance, cannot be underestimated. In order to be a highly functioning member of society, it is imperative that every citizen has not only the ability but the proper tools at his arsenal to utilize in order to lift himself out of destitution and live a life of dignity, characterized by equality, filled with the sanctity of the human personality, and fully experience in freedom to all attainable perfection.[196]

As written masterfully by Ricardo Paras:

> I will dwell on the individual. He is either employed or unemployed. If he is employed—why is he not financially secure? [...] This brings up the question—[w]hy does he not earn enough? He does not want to earn enough. Perhaps he is lazy, perhaps he is not ambitious – the individual who wants to earn more – how about one who desires greater material returns but who cannot get what he wants? How about him? One may answer this question. Why does he not get enough, notwithstanding his desire to receive more compensation?[197]

It is noteworthy to ask again and again: Why do our people not get enough?

3. Addressing Legislative Loopholes: The Effective Use of Legislation Using the Social Justice Framework

The law's mandate to Congress to prioritize social justice legislation is reflected in Article XIII, Section 1 of the Constitution: "The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities."[198] It is important to note that the "means to achieve social justice is provided in the last sentence of

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[195] Enrique Fernando, *Human Rights According to Pacem in Terris and the Constitution of the Philippines: A Life of Dignity for All*, 25 ATENEO L.J. 2 (1980), *citing* Pope John XXIII, *Pacem in Terris*, The Five Great Social Encyclicals, 213 (1969).

[196] Ostrea, *supra* note 170, at 114.

[197] Ricardo Paras, *The Beginning and the End of Human Rights*, 7 ATENEO L.J. 146 (1957).

[198] CONST. art. XIII, § 1.

Paragraph I, Article XIII—by equitably diffusing wealth and political power for the common good."[199]

Certain laws are regarded as inefficient in fully enforcing the economic rights of the people as guaranteed by the Constitution. One such legislation is the law on agrarian reform,[200] wherein the law allows "agrarian reform by way of distribution of shares of stock rather than land."[201] In their study on the developments of the Comprehensive Agrarian Reform Program (CARP) under the administration of former President Benigno Aquino III, Cruz and Manahan observed that the current laws in force to redistribute land to landless farmers do not meet squarely the needs of Filipino farmers.[202] They still have the tendency to favor landlords, to wit:

> Specifically, Section 28 and 29 of A.O. No 7 have been held [. . .] as detrimental to the welfare of the farmers since they incentivize recalcitrant land owners to circumvent and even hold hostage the land distribution process by the mere filing of "Protests against CARP Coverage and/or Petitions for Exemption/Exclusion." Furthermore, these provisions are contrary to the intent of the original CARL, which provides in certain provisions (i.e. Sections 55 and 68 of the CARL, as amended)[203] against possible delays in land distribution, even to the point of prohibiting courts of law (except the Supreme Court) from issuing injunctions, restraining orders, and prohibitions or *mandamus* against the Presidential Reform Council–the highest policy making body of the program.[204]
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> In this sense, A.O. No. 7 compromises prospective farmer-beneficiaries' interests in the name of "due process' as the suspension of the land reform implementation process pending the resolution of the protest or exemption/exclusion cases by the Office of the President.[205]

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[199] Christian Monsod, *Social Justice*, 59 ATENEO L.J. 694–95 (2014).

[200] *Id., citing* Rep. Act No. 6657 (1988) §§ 20 & 31. Comprehensive Agrarian Reform Law of 1988.

[201] Monsod, *supra* note 199, at 694.

[202] Jerome Cruz & Mary Ann Manahan, *CARPER Diem: A Socio-Legal Analysis of the State of the Comprehensive Agrarian Reform Program in the Aquino Administration*, 59 ATENEO L.J. 930 (2014).

[203] *Id., citing* Comprehensive Agrarian Reform Law of 1988, §§ 55 & 68.

[204] *Id., citing* Comprehensive Agrarian Reform Law of 1988, § 55.

[205] *Id., citing* DAR Adm. Order No. 7, (2011), § 29. Revised Rules and Procedures Governing the Acquisition and Distribution of Private Agricultural Lands Under Republic Act (R.A.) No. 6657, As Amended.

Laborers are also facing massive challenges in seeking the enforcement of their constitutionally guaranteed rights—rights, which can help improve their standard of living and benefits of employment. Legal scholar Francis Lim argues the need for government employees to also benefit from the fruits of collective bargaining in order that his "right to just and human conditions of work may be assured."[206] He particularly criticized Republic Act (R.A.) No. 2260, Section 28[207] which "do[es] not allow collective bargaining" of government employees, thus:

> It is therefore, clear that the terms and conditions of government employment, including employment in government-owned and controlled corporations, are governed by the Civil Service law, riles, and regulations which do not allow collective bargaining. Status-wise, therefore, the public employee is still without collective bargaining rights [...]. The fundamental policy of the government [is] to afford 'protection to labor' and 'assure the rights of workers to collective bargaining'. The State shall also 'ensure equal work opportunities' and the 'right of workers to just and humane conditions of work.'
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> * * *
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> While we are not unaware of the difference existing between the public and private employer, we submit that the "similarities far out-weigh the differences, and that existing differences are too insignificant to justify disparate treatment regarding bargaining rights.[208]

These rights of employees cannot be simply overlooked—they must be reinforced in order to avoid "subverting the democratic ideals of human equality."[209] These rights, among others, are perfect examples which the executive and judiciary can enforce more faithfully, if dynasties are to end.

Poverty due to the lack of attention given to the economic rights of the people is made more apparent by the high hunger incidence in the country. In his study, Ron Salo argues for the enforcement of the right of the people

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[206] Francis Edralin Lim, *Collective Bargaining For Government Employees: A Constitutional Reflection*, 24 ATENEO L.J. 48 (1979).

[207] Rep. Act No. 2260, (1959), § 28. The Civil Service Act of 1959.

[208] *Supra* note 206.

[209] *Id.*

to be free from hunger—drawing from international law, particularly the UDHR,[210] thus:

> As estimated 4.8 million families (*24 million Filipinos* for a family of five members, representing 23.8% of the country's population) said they experienced hunger at least once in the past three months according to a survey conducted by the Social Weather Stations (SWS) [...]. The Philippine Government has to realize that while the country's obligation to ensure the right to food of its people is primarily owed to the international community as a whole; *once this right is violated, the victims are its own people – the Filipino[s] themselves.*[211]

It is crystal clear that Filipinos are suffering from the lack of proactive legislation, which ensures their economic prosperity as a people. Due to millions experiencing poverty, many of them become prone to manipulation and subversion by dynastic politicians that take advantage of such situations. The destitution that is ever present in Philippine society has become the fertile soil where these politicians spread their seeds of insinuation and manipulation. This same fertile soil perpetuates the culture of patronage that resounds more loudly after hundreds of years of oligarchic rule—controlled by elite ruling families from powerful political clans.

d. Re-framing Judicial Action: Taking Cognizance of Economic Rights as Justiciable before the Courts of Law

Efren Resurrecion made a stark argument that "[s]tate policies found in Article II of the 1987 Constitution should be interpreted as self-executing in the sense that they should not be readily dismissed as mere suggestions for the political branches of government."[212] He masterfully discussed the self-executing nature of the state policies in Article II of our Constitution, thereby empowering the judiciary to take cognizance of cases which violate not only the civil and political rights of the people but also those that infringe on their social and economic rights. The Supreme Court in the case of *Manila Prince Hotel v. GSIS*[213] ruled that:

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[210] UDHR, art. 25, Dec. 10, 1948: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care [,] and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age[,] or other lack of livelihood in circumstances beyond his control."

[211] Ron Salo, *Filipino' Right to Food: Violated?*, 57 ATENEO L.J. 638 (2012). (Emphasis supplied.)

[212] *Id.*

[213] Manila Prince Hotel v. Gov't Serv. Ins. Sys., G.R. No. 122156, 267 SCRA 408,

> As against constitutions of the past, modern constitutions have been generally drafted upon a different principle and have often become in effect extensive codes of laws intended to operate directly upon the people in a manner similar to that of statutory enactments, and the function of constitutional conventions has evolved into one more like that of a legislative body. Hence, unless it is expressly provided that a legislative act is necessary to enforce a constitutional mandate, the presumption now is that all provisions of the constitution are self-executing. If the constitutional provisions are treated as requiring legislation instead of self-executing, the legislature would have the power to ignore and practically nullify the mandate of the fundamental law.[214] This can be cataclysmic. That is why the prevailing view is, as it has always been, that
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> > [i]n case of doubt, the Constitution should be considered self-executing rather than non-self-executing [...]. Unless the contrary is clearly intended, the provisions of the Constitution should be considered self-executing, as a contrary rule would give the legislature discretion to determine when, or whether, they shall be effective. These provisions would be subordinated to the will of the lawmaking body, which could make them entirely meaningless by simply refusing to pass the needed implementing statute.[215]

This only shows that the social and economic rights of the people as provided in Article II of the Constitution can serve as legal basis for justiciable rights by which the courts of law have the power to decide. This is similar to the Supreme Court's pronouncement in *Oposa v. Factoran*,[216] wherein petitioners were recognized by the Court as having a clear and constitutional right to a balanced and healthful ecology and are therefore "entitled to the protection of the State in its capacity as the *parens patriae*." The Court stated that the petitioners have legal standing considering that they have "personality to sue in behalf of the succeeding generations on the concept of

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(1997). This case was also utilized by Resurreccion in noting that it has provided "fertile ground to argue for the self-executing nature of various provisions by using the textualist approach."

[214] *Id.* at 43–32, *citing* 16 AM JUR. 2D *Constitutional Law* § 281 (1979).

[215] *Id.* at 432, *citing* ISAGANI CRUZ, CONSTITUTIONAL LAW 8–10 (1993).

[216] Oposa v. Factoran, G.R. No. 10183, 224 SCRA 792 (1993).

intergenerational responsibility."[217] Other economic rights, which may also be considered self-executing:[218] the right of the public to full public disclosure,[219] the right to a balanced and healthful ecology,[220] the right to health,[221] the right of the unborn to protection,[222] the right of the youth for the protection of their well-being,[223] the policy for an independent national economy,[224] and the right of workers[225]—all of which correspond to the social and economic rights of the people as protected by the Constitution.

Pangalangan's dissertation emphasized the role of judicial activism in ensuring the liberty and the prosperity of the people.[226] In doing so, he highlighted the importance of the role of the judiciary as guardians of the law and of our democratic principles, to wit:

> We must not lose sight of the Constitution's objective to level the playing field.[227] The Court should thus temper itself by applying the Bill of Rights within the private sphere only to situations involving relations of unequal footing. The Constitution's function as a code of fair play should not be thwarted by the mere lack of state action.
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> * * *
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> The judicial function being "undemocratic" in nature, the counter-majoritarian objection is its own rebuttal. The court's undemocratic role is but necessary to compensate for the flaws of democracy. The issue at hand therefore is no longer the justiciability of civil, political, economic, and social, rights; but the "willingness of adjudicating bodies to entertain, examine and pronounce on claims affecting these rights."[228]

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[217] *Id.*

[218] *Supra note* 213.

[219] CONST. art. II, § 28.

[220] CONST. art. II, § 16.

[221] CONST. art. II, § 15.

[222] CONST. art. II, § 12.

[223] CONST. art. II, § 13.

[224] CONST. art. II, § 19.

[225] CONST. art. II, § 18.

[226] Pangalangan, *supra* note 174 at 36.

[227] *Id.* at 37, *citing* Phil. Blooming Mills Emp. Org. v. Phil. Blooming Mills Co., Inc., G.R. No. 31195, 51 SCRA 289, June 5, 1973.

[228] *Id.* at 37, *citing* the UN HANDBOOK FOR NATIONAL HUMAN RIGHTS. INSTITUTIONS, 26.

> Judicial activism is a tool to overcome state inadequacies; judicial deference is the renunciation of constitutional duty. To argue for judicial passivity would rob liberty and prosperity of any meaningful power. The courts would but pay lip service to fundamental rights; leaving no remedy for the failures of the state to deliver on its tripartite duties.[229]

Commissioner Monsod of the 1986 Constitutional Commission recognized the role of the judiciary in ensuring the economic prosperity of the people.[230] However, he criticized the Supreme Court for shying away from the enforcement of economic rights in cases when it chooses to "invoke the doctrine of avoiding 'policy issues'[231]—even in cases with far reaching consequences on economic and social policies, and on the poor."[232] Critically analyzing the role of the judiciary in giving effect to the intent of the framers in establishing a just and human society, he states:

> Why the Supreme Court invokes the doctrine of avoiding 'policy issues'—even in cases with far reaching consequences on economic and social policies, and on the poor—when its power of judicial review includes the power to interpret the Constitution and to promulgate 'controlling principles' for the guidance of the Legislature and the Executive, is a valid question to ask [...]. The Constitution contains many economic principles and prescriptions on poverty and inequality, such that avoiding economic issues especially on landmark cases leaves a gaping hole in the delicate balance of separation of powers and in the scope of judicial review. As a result, social justice is not served. This cannot be countenanced.[233]

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[229] Pangalangan, *supra* note 174 at 37.

[230] *Supra* note 199.

[231] *See also* Central Bank Emp'ees Ass'n v. Bangko Sentral ng Pilipinas, G.R. No. 148208, 446 SCRA 299 (2004), *citing* Dumlao v. Comm'n on Elections, G.R. No. 52245, 95 SCRA 392, 404 (1980); Peralta v. Comm'n on Elections, G.R. No. 47771, 82 SCRA 30 (1978); Felwa v. Salas, G.R. No. L-26511, 18 SCRA 606 (1966); Rafael v. Embroidery and Apparel Control and Inspection Bd., G.R. No. L-19978, 21 SCRA 336 (1967); People v. Carlos, 78 Phil. 535 (1947); Ichong v. Hernandez, 101 Phil. 1155 (1957). "Under most circumstances, the Court will exercise judicial restraint in deciding questions of constitutionality, recognizing the broad discretion given to Congress in exercising its legislative power. Judicial scrutiny would be based on the rational basis test, and the legislative discretion would be given deferential treatment."

[232] *Supra* note 199.

[233] *Id.*

Furthermore, in describing the debilitating state of Philippine economy and the widespread state of poverty among its citizens, he emphasized the role of law in alleviating the plight of the Filipino people:

> Poverty results not from natural market forces but from the way we have shaped corporate law, labor law, employment law, trade law, education law, and also poverty law. Poverty is neither a natural disaster nor an act of God. It is a preventable disease. The question is not whether we can do anything about it; the question is whether we want to.[234]

CONCLUSION

A. The Finale: Unveiling the Trojan Horse

"The City of Troy was under siege for a decade. The Greek armies tried and tried to take the independent city, but they couldn't break through the walls [...] Finally, after a decade of abject failure, the Greeks developed a strategy [...] For a decade, the Greeks demonstrated that tactics without strategy have little effect. This lesson is equally relevant today. When you put tactics first you can get mired in a stalemate."[235]

For three long decades, the intent of the framers of the 1987 Constitution never reached its fruition. While the power to define the concept and establish the limitations of the concept of political dynasties was delegated to the Congress, such proved to be ineffective, as the same body who will shape the contours of the concept is dominated by political dynasties. The task of defining itself also proved to be critical, as the limitations and prohibitions established may be countered as curtailing another set of constitutionally-protected rights. Similar to the predicament of the Greeks in their mission to siege the City of Troy, the legislative route has proven to hit the wall—concluding in similar fashion to the Greeks' stalemate.

The *Trojan Horse* is an uncommon strategy that wielded victory for the Greeks. By dressing the siege under the guise of a surrender, it surpassed worthless strategies which have held the Greeks in defeat for many years.

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[234] Monsod, *supra* note 199 at 693, *citing* Joseph William Singer, *Title of Nobility: Poverty, Immigration, and Property in a Free and Democratic Society*, I J.L. PROP. & SOC'Y 12 (2014).

[235] Jeremy Miller, *Strategies versus Tactics: Beware Of Greeks Bearing Gifts*, Nov. 7, 2017, *available at* https://stickybranding.com/strategies-versus-tactics-beware-of-greeks-bearing-gifts/.

Likewise, this paper provides an alternate lens to the persistence of political dynasties by offering an unconventional legal approach to resolving its adverse effects. This, the author argues, can be done by surrendering the legislative approach that has long been proven futile for decades in Congress. Instead, it is proposed that the Constitutional gates be opened through a *Trojan Horse, precisely*: by amending the Constitution from the inside to clearly define a political dynasty and to create justiciable rights, followed by a *Trojan Surprise*: by strengthening the enforcement of socio-economic rights which, as far-reaching and long-term as they are, can effectively promote civil and political rights to cut the extensions of corruption and patronage that allow the profusion of political dynasties.

It is true that amendments to the constitution can prove to be tedious, especially in consideration of Constitutional assemblies or conventions that will likely also be controlled by the same legislators who do not wish dynasties to end. Hence, the Trojan horse approach—which, as the Greeks have used to guise a siege, the good must also use to twist the expectation. That is, amendments must be proposed in a way that will show benefit to legislators and politicians, but must also pave the way for culling. How can defining a political dynasty seem delectable to dynasties? How can empowering citizens bring delight to kings and queens? The answers to these questions are collectively the horse that will guise the siege.

The author bridges the gap between law and reality by proposing the amendment of the Constitution. *Firstly*, the author forwards the infusion of a self-executing provision in the Constitution, which would no longer need enabling legislation. *Secondly*, however, the author runs counter to existing propositions advocating the limitation of prohibition only to the second degree of consanguinity or affinity. The author argues that: (1) by empowering Congress with regard to the extension of defining consanguinity and affinity, the same result of 'hitting the wall'—a *stalemate*—is produced, and (2) by pushing for the similar treatment of elective and appointive officials on the basis of family relations – making the prohibition extend to the fourth degree of consanguinity or affinity, a constitutional loophole is prevented. This creates the perfect balance considering *the adjacent terrain of related legislation.*

Lastly, the paper offers a legal lens through which the root cause of the pervasion of political dynasties is seen. Truly, the lack of economic prosperity amongst the Filipino people is argued to have led to the entrenchment of political dynasties. In effect, patronage and corruption is bred through the people who are swayed by *wanting to have their fill.* Recognizing that wealthy and influential politicians will not be placed into power if the

people can properly exercise their civil and political rights is a powerful approach—supported by domestic and international law—which, among its other effects, can effectively cull the profusion of political monopoly in the Philippine setting.

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PHILIPPINE LAW JOURNAL

VOLUME 92 JULY 2019 NO. 2

ISSN 0031-7721

PHILIPPINE LAW JOURNAL
Published by the College of Law, University of the Philippines,
Diliman, Quezon City, Philippines

VOLUME 92 | JULY 2019 | NO. 2

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ACKNOWLEDGMENTS

The Editorial Board of the PHILIPPINE LAW JOURNAL Volume 92 would like to acknowledge the editorial assistants for this volume. Participants in the PLJ Editorial Assistants Program help out the members of the Editorial Board in their regular editorial and administrative tasks. Because membership in the JOURNAL is purely on the basis of academic qualifications and the annual competitive examinations, participants in the Editorial Assistants Program are not members of the publication. However, participation in said program is especially encouraged for students interested in membership in the Board, as it exposes them to the work of student editors.

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