

# [ MALOLOS CONSTITUTION, January 20, 1890 ]

## MALOLOS CONSTITUTION POLITICAL CONSTITUTION

*We, the Representatives of the Filipino people, lawfully convened, in order to establish justice, provide for common defense, promote the general welfare, and insure the benefits of liberty, imploring the aid of the Sovereign legislator of the Universe for the attainment of these ends, have voted, decreed, and sanctioned the following:*

### **POLITICAL CONSTITUTION TITLE I**

*Of the Republic*

#### **ARTICLE 1**

The political association of all the Filipinos constitutes a nation, whose states is called the Philippine Republic.

#### **ARTICLE 2**

The Philippine Republic is free and independent.

#### **ARTICLE 3**

Sovereignty resides exclusively in the people.

### **TITLE II** *Of the government*

#### **ARTICLE 4**

The Government of the Republic is popular, representative, alternative, and responsible, and is exercised by three distinct powers, called the legislature, the executive, and the judicial. Two or more of these powers shall never be vested in one person or corporation; neither shall the legislative power be intrusted to a single individual. **TITLE III** *Of religion*

#### **ARTICLE 5**

The state recognizes the freedom and equality of religious worships, as well as the separation of the church and the state.

### **TITLE IV** *Of the Filipinos and their national and individual rights*

#### **ARTICLE 6**

The following are Filipinos:

- All persons born in Philippines territory. A vessel flying the Philippine flag shall, for this purpose, be considered a portion of the Philippine territory.
- The children of a Filipino father or mother, although born outside of the Philippines.
- Foreigners who have obtained a certificate of naturalization.
- Those who, without this, have acquired residence ("vecindad") in any town of the Philippine territory.

Residence is considered as acquired by staying two years without interruption in any locality of the Philippine territory, having an open abode and a known mode of living, and contributing to all the charges of the nation. The condition of being a Filipino is lost in accordance with the laws.

#### **ARTICLE 7**

No Filipino or foreigner shall be arrested or imprisoned except by reason of a crime and in accordance with law.

#### **ARTICLE 8**

All persons detained shall be released or delivered to the judicial authority within the twenty-four hours following the act of detention. All arrest shall be without effect or shall be carried to commitment within the seventy-two hours following the delivery

of the detained person to a competent judge. Notice of the order issued shall be given to the interested party within the same period.

#### **ARTICLE 9**

No Filipino shall be imprisoned except by virtue of a writ issued by a competent judge. The decree under which the writ is issued shall be ratified or confirmed, the presumed criminal having been heard, within the seventy-two hours following the act of commitment.

#### **ARTICLE 10**

No person shall enter the domicile of a Filipino or foreigner residing in the Philippine Islands without his consent, except in urgent cases of fire, flood, earthquake, or other similar danger, or of unlawful aggression proceeding from within, or in order to assist a person within calling for help. Outside of these cases, the entrance into the domicile of a Filipino or foreigner residing in the Philippine Islands, and the searching of his papers or effects, can only be decreed by a competent judge and executed in the daytime. The searching of these papers and effects shall always be done in presence of the interested party or of a member of his family, and, in their absence, of two witnesses residing in the same town ( pueblo). However, if an offender found in flagrante and pursued by the authorities or their agents should take refuge in his domicile, these may enter the same, but only for the purpose of his apprehension. If he should take refuge in the domicile of another, request should first be made of the latter.

#### **ARTICLE 11**

No Filipino shall be compelled to change his domicile or residence except by virtue of a final judgment.

#### **ARTICLE 12**

In no case can correspondence confined to the post-office be detained or opened by government authorities, nor can those made by telegraph or telephone be detained. But, by virtue of a decree by a competent judge, any correspondence can be detained and that carried through the mails may also be opened in the presence of the accused.

#### **ARTICLE 13**

All decrees of imprisonment, for the search of domicile, or for the detention of correspondence, whether written, telegraphic, or by telephone, shall be for cause. If the decree should lack this requisite, or if the causes on which it may be founded are judicially declared unlawful or manifestly insufficient, the person who may have been detained, shall have the right to demand the liabilities which ensue.

#### **ARTICLE 14**

No Filipino shall be prosecuted or sentenced except by a judge or tribunal, who, by virtue of the laws in force prior to the commission of the crime, has jurisdiction to take cognizance of the same, and in the form which the latter prescribed.

#### **ARTICLE 15**

Outside of the cases prescribed in this Constitution, all persons detained or imprisoned without the legal formalities shall be discharged upon their own petition or that of any Filipino. The laws shall determine the form of proceeding summarily in this case, as well as the personal and pecuniary liabilities incurred by the person who may order, execute, or cause to be executed, the illegal detention or imprisonment.

#### **ARTICLE 16**

No person shall be deprived temporarily or permanently of his property or rights, or disturbed in his possession, except by virtue of a judicial sentence. Those functionaries who, under any pretext, should infringe this provision, shall be personally responsible for the damage caused.

#### **ARTICLE 17**

No person shall be deprived of his property except by reason of public necessity and welfare, previously justified and declared by the proper authority, and after paying indemnity to the owner prior to the act of expropriation.

#### **ARTICLE 18**

No person shall be obliged to pay any tax which has not been voted upon by the Assembly or by the public corporations legally authorized to impose it, and whose assessment is not made in the form prescribed by law.

#### **ARTICLE 19**

No Filipino in the full enjoyment of his civil and political rights shall be hindered in the free exercise of the same.

#### **ARTICLE 20**

Neither shall any Filipino be deprived of:

- The right of expressing freely his ideas and opinions either by word or by writing, availing himself of the press or any other similar means.
- The right of joining any association for all the objects of human life which may not be contrary to public morals; and finally,
- Of the right to petition, individually collectively, the different departments of government and the public authorities.

The right of petition shall not be exercised through any kind of armed force.

#### **ARTICLE 21**

The exercise of the rights expressed in the preceding article shall be subject to the general provisions which regulate them.

#### **ARTICLE 22**

Crimes committed upon the occasion of the exercise of the rights granted in this title shall be punished by the courts in accordance with the ordinary laws.

#### **ARTICLE 23**

Any Filipino can found and maintain establishments of instruction or education, in accordance with the regulations that may be established. Popular education shall be obligatory and gratuitous in the schools of the nation.

#### **ARTICLE 24**

Any foreigner may establish himself freely in Philippine territory, subject to the provisions governing the matter, exercising therein his industry, or devoting himself to any profession for the exercise of which the law does not require any certificates of fitness from the national authorities.

#### **ARTICLE 25**

No Filipino who is in the full enjoyment of his political and civil right shall be hindered from going freely from the territory, nor from removing his residence or property to a foreign country, without prejudice to the obligation to contribute to the military service and the maintenance of the public charges.

#### **ARTICLE 26**

A foreigner who has not been naturalized shall not exercise in the Philippines any office to which any authority or jurisdiction is attached.

#### **ARTICLE 27**

Every Filipino is obliged to defend the country with arms when he is called upon by the law, and to contribute to the expenses of the state in proportion to his holdings.

#### **ARTICLE 28**

The enumeration of the rights granted in this title does not imply the prohibition of any others not expressly stated.

#### **ARTICLE 29**

No previous authorization shall be necessary for the prosecution of public functionaries before ordinary tribunals, whatever may be the crime they have committed. A superior order shall not exempt them from responsibility for the manifest, clear, and determinate infraction of a constitutional provision. In other cases, it shall only exempt the agents who do not exercise any authority.

#### **ARTICLE 30**

The guarantees provided for in articles 7, 8, 9, 10, and 11 and paragraphs 1 and 2 of article 20, shall not be suspended in the Republic nor in any part of it, but only temporarily and by means of a law, when the security of the state in extraordinary circumstances requires it. This having been promulgated in the territory to which it may apply, special law shall govern during such suspension, according to what the circumstances may demand. The latter as well as the former shall be voted in the national Assembly, and in case this is closed, the government is authorized to issue the same, in conjunction with the permanent commission, without prejudice to the calling of the former at the shortest possible time and giving account of what may have been done. But neither one nor the other law shall suspend any other guarantees than those mentioned in the first paragraph of this article, nor authorize the government to banish or deport any Filipino from the country. In no case can the military or civil heads establish any penalty other than that previously provided by law.

#### **ARTICLE 31**

In the Philippine Republic no person shall be tried under a special law or by special tribunals. No person or corporation shall have privileges nor emoluments except as a compensation for public service which are fixed. " El fuero de Guerra y marina" ( the jurisdiction, privileges and powers of the army and navy) shall extend solely to the crimes and misdemeanors having intimate connection with military and naval discipline.

#### **ARTICLE 32**

No Filipino shall establish rights of primogeniture in succession ( "mayorazgos" ) , nor institutions entailing property, nor institutions entailing property, nor accept honors, decoration of orders (" condecoraciones") or titles of honor and nobility from foreign nations without authorization of the government. Neither shall the government of the Republic establish institutions specified in the previous paragraph, nor grant honors, decoration of orders ( "condecoraciones" ) , or titles of honor and nobility to any Filipino. The nation may, however, reward by special law approved by the Assembly eminent services rendered by citizens to their country.

#### **TITLE V Of the Legislative Powers ARTICLE 33**

The legislative power shall be exercised by an Assembly of Representatives of the nation. The Assembly shall be organized in the form and under the conditions determined by the law which may be passed to that effect.

#### **ARTICLE 34**

The members of the Assembly shall represent the whole nation and not exclusively the voters who chose them.

#### **ARTICLE 35**

No Representative can receive from his electors any imperative instruction.

#### **ARTICLE 36**

The Assembly shall meet every year. The president of the Republic has the prerogative to convoke it, suspend and close its sessions and dissolve it, with its concurrence or with that of the permanent commission in its default, and within the periods established by law.

#### **ARTICLE 37**

The Assembly shall be open at least three months each year without including in this time that which is required for its organization. The President of the Republic shall convoke it on the 15 th April at the latest.

#### **ARTICLE 38**

In an extraordinary case, he may convoke it outside of the legal period, with the concurrence of the permanent commission, and prolong the legislature when the term does not exceed one month, and when this is not done more than two times in the same legislature.

#### **ARTICLE 39**

The National Assembly, together with the extraordinary Representatives, shall form the constituent assembly in order to proceed to the modification of the Constitution and to the election of a new President, convoked at least one month prior to the expiration of the power of the former. In case of the death or resignation of the president of the Republic, the Assembly shall meet immediately in its own right and at the call of the President or of the permanent commission.

#### **ARTICLE 40**

In the meantime, while the choice of the President of the Republic has not yet taken place, his powers shall be exercised by the President of the Supreme Court of Justice, who in his turn shall be relieved by a member of this tribunal, according to the laws.

#### **ARTICLE 41**

Any meeting of the Assembly held outside of the period of the ordinary legislature shall be illegal and void. From this is excepted the case provided for in article 39, and that where the Assembly is constituted into a tribunal of justice, in which case it cannot exercise other than judicial functions.

#### **ARTICLE 42**

The sessions of the Assembly shall be public. However, they can be made secret at the petition of a certain number of its members, fixed by the rules, it being decided afterwards by an absolute majority of votes of the members present whether the discussion of the same should be continued in public.

#### **ARTICLE 43**

The President of the Republic shall communicate with the Assembly by means of messages, which shall be read from the rostrum by a Secretary of the government. The Secretaries of the government shall have a seat in the Assembly with the right to take the floor whenever they request it, and may be represented in the discussion of any particular project by a commissioner designated by decree of the President of the Republic.

#### **ARTICLE 44**

The Assembly may be constituted into a judicial tribunal, by means of a decree issued by it, or by the permanent commission, in its absence, or by the President of the Republic at the proposal of the Solicitor General or of the council of the government, in order to try crimes committed against the security of the state by the President of the Republic and the members of the council of the government, by the President of the Supreme Court of Justice, and by the Solicitor General of the nation. The laws shall determine the mode of procedure for the accusation, trial ( instruction) , and pardon.

#### **ARTICLE 45**

No member of the Assembly shall be prosecuted or molested for the opinions which may have expressed or the votes which he may have cast in the performance of his office.

#### **ARTICLE 46**