

# **A BRIEFER ON IMPEACHMENT**

**JUSTICE ANTONIO EDUARDO B. NACHURA (Ret.)**

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# IMPEACHMENT - DEFINITION

- **A method of national inquest into the conduct of public men.**

*(Alexander Hamilton, Federalist No. 65, Federalist Papers)*

- **IMPEACHMENT is a method of national inquest to protect the state. It does not intend to prosecute; it is not intended for its retributory or restitutory effects. Rather, it is in the nature of an exemplary act by which the state infuses the highest sense of responsibility to public service.**

*(Commissioner Felicitas Aquino, Record of the Constitutional Commission, Vol. II, p. 354  
July 28, 1986)*

- **IMPEACHMENT** refers to the power of Congress to remove a public official for serious crimes or misconduct, as provided in the Constitution. A mechanism designed to check abuse of power, Impeachment has its roots in Athens and was adopted in the United States (US) through the influence of English common law on the framers of the US constitution.

*(Corona v. Senate, G.R. No. 200242, July 17, 2012)*

# CONSTITUTIONAL BASIS

## ARTICLE XI - Accountability of Public Officers

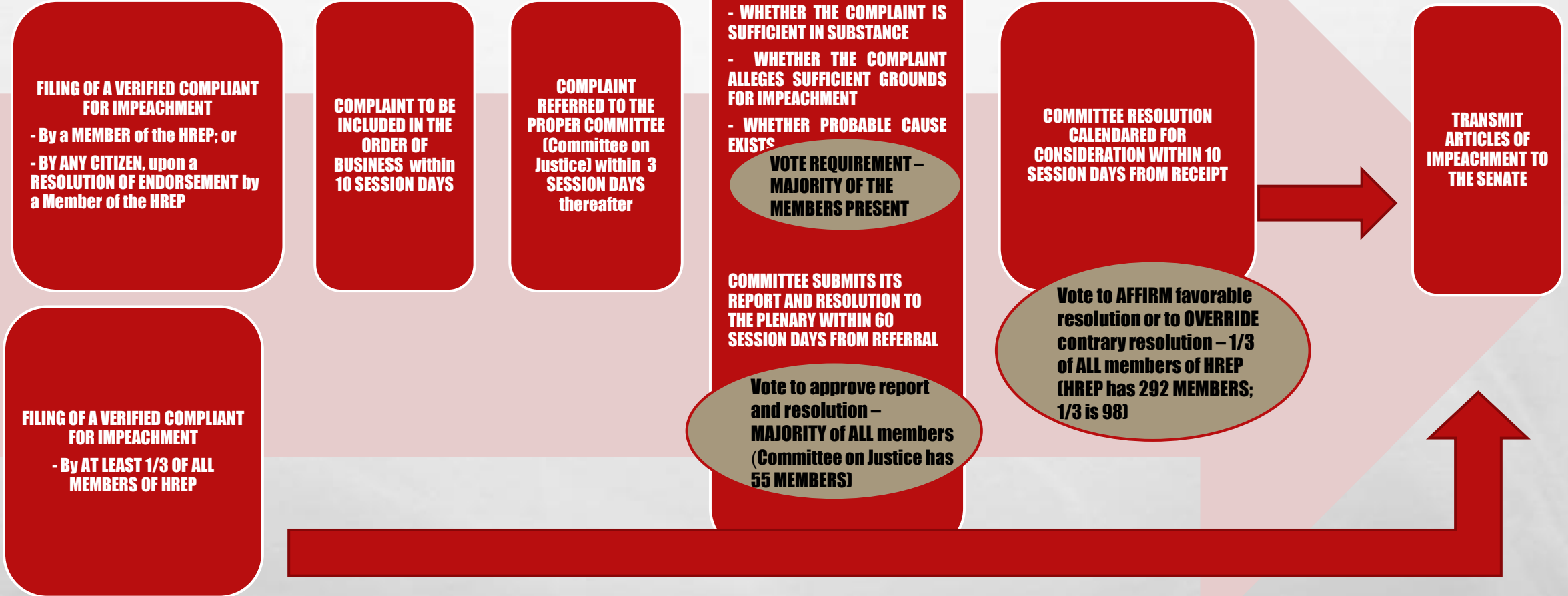
**SECTION 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.**

**SECTION 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.**



**HOUSE OF REPRESENTATIVES**  
**EXCLUSIVE power to initiate all cases of impeachment**

# PROCEDURE



# **ONE-YEAR BAR RULE**

**No impeachment proceedings shall be initiated against the same official more than once within a period of one year.**

*(interpreted by the Supreme Court in the cases of Francisco v. House of Representatives and Gutierrez v. House of Representatives)*

# GROUNDS FOR IMPEACHMENT

- **CULPABLE VIOLATION OF THE CONSTITUTION**

- **Refers to “willful and intentional violation of the Constitution”**
- **Implies deliberate intent, even a certain degree of perversity**
- **Not a violation committed unintentionally or involuntarily or in good faith or through an honest mistake of judgment**

*(Record of the Constitutional Commission, July 26, 1986, Vol. II, p. 278)*



## • **TREASON, BRIBERY, GRAFT AND CORRUPTION**

➤ **The Commissioners did not feel the need to elaborate on the grounds of Treason, Bribery and Graft and Corruption, as these are all covered by law.** (*Record of the Constitutional Commission, Volume II, July 26, 1986, p. 278*)

➤ **TREASON** - committed by any person who, owing allegiance to the Government of the Philippine Islands, not being a foreigner, levies war against them or adheres to their enemies, giving them aid or comfort within the Philippine Islands (Art. 114, RPC)

### ➤ **BRIBERY**

**DIRECT BRIBERY** - The act of a public officer who shall agree to perform or refrain from performing an act, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another. (Art. 210, RPC)

**INDIRECT BRIBERY** - If a public officer accepts gifts offered to him by reason of his office. (Art. 211, RPC)

Bribery is qualified if the same is committed by any public officer is entrusted with law enforcement and he refrains from arresting or prosecuting an offender who has committed a crime punishable by reclusion perpetua and/or death in consideration of any offer, promise, gift or present, in which case the public officer shall suffer the penalty for the offense which was not prosecuted. If it is the public officer who asks or demands such gift or present, he shall suffer the penalty of death. (As amended by section 4, RA no. 7659)



- **OTHER HIGH CRIMES**

- **High crimes refer to those offenses which, like treason and bribery, are indictable offenses and are of such enormous gravity that they strike at the very life or orderly working of the government.**

*(Record of the Constitutional Commission, July 26, 1986, Vol. II, p. 278)*

## • **BETRAYAL OF PUBLIC TRUST**

- **Betrayal of Public Trust was placed to relax the grounds for impeachment.**

*(See discussion Record of the Constitutional Commission, July 26, 1986, Vol. II, p. 279)*

- **A catch-all phrase to include all acts which are not punishable by statutes as penal offense, but nonetheless, render the officer unfit to continue in office. It includes betrayal of public interest, inexcusable negligence of duty, tyrannical abuse of power, breach of official duty by malfeasance or misfeasance, cronyism, favoritism, etc. to the prejudice of public interest and which tend to bring the office into disrepute.**

*(Record of the Constitutional Commission, July 26, 1986, Vol. II, p. 272)*

- **The concept is that this is a catchall phrase. It refers to his oath of office, in the end that the idea of a public trust is connected with the oath of office of the officer, and if he violates that oath of office, then he has betrayed that trust.**

*(Record of the Constitutional Commission, July 26, 1986, Vol. II p. 272)*

- **Acts which are just short of being criminal but constitute gross faithlessness against public trust, tyrannical abuse of power, inexcusable negligence of duty, favoritism and gross exercise of discretionary power.**

*(Record of the Constitutional Commission, July 26, 1986, Vol. II, p. 286)*



- **Nevertheless, to constitute Betrayal of Public Trust, the act must be of such nature as to strike at the very heart of government.**
- **According to Fr. Joaquin Bernas, “betrayal of public trust” was a 1987 addition. What is noteworthy, however, is that they are mentioned together with the old grounds of “culpable violation of the constitution, treason, bribery, other high crimes.” The effect of putting all of these together, following what lawyers call the rule of *ejusdem generis*, is that “graft and corruption” and “betrayal of public trust” are given a meaning vested with the severity of the traditional grounds.**
- ***Not every form of graft and corruption or every form of betrayal of public trust can be considered a ground for impeachment. These must also be of a nature as to strike at the very heart of government.***

(Bernas, Joaquin. *A Living Constitution: The Abbreviated Estrada Presidency, “Impeachment can Work,”* page 241. Ateneo de Manila University, 2003)



- **The Constitution did not provide for the quantum or standard of proof that should be used in impeachment cases.**
- **Exchange between Commissioner Davide and Commissioner Romulo on the subject:**

MR. DAVIDE: And, finally, for convicting a person for impeachment, would proof beyond reasonable doubt be required?

Mr. ROMULO: Again, this is not a criminal proceeding, I would not think so.

*(Record of the Constitutional Commission, July 26, 1986, Vol. II, pp. 280-281)*

***Former Solicitor General Florin T. Hilbay, “The Nature and Function of Impeachment: A Practical Theory” published in the IBP Journal, Special Issue on Impeachment, on March 2012***

- **Each and every member of the Senate is given by the Constitution full and final discretionary authority to determine what kind or quantum of evidence would be needed to satisfy him or her on any decision. To use any specific standard of proof used in judicial proceedings would make the trial before the Senate susceptible to an appeal before the Supreme Court because they end up tying the hands of the Senate to a standard of discretion which may be open to “grave abuse.”**

- **xxx xxx The ultimate check on possible abuse by the Senate of its powers as an impeachment court is the judgment of the people themselves. Following this view, the nomenclature of the standard of evidence is no longer material because in the end it is the senators who will have to justify their decision before the people, one way or another.**
- **Finally, if we have to speak of any standard at all, perhaps we can say that for the Senators, as judges in an impeachment court, the quantum of evidence sufficient to either convict or acquit would be whatever is reasonable to them, or what appeals to each and every member's sound judgment, insofar as it can be defended before the bar of public opinion."**



# THE JOSEPH ESTRADA IMPEACHMENT (2000-2001)

- **Nov. 13, 2000 – Presiding over the session, Speaker Manuel Villar transmitted the Articles of Impeachment signed by 115 Members (more than 1/3 of the total number of Members of the House of Representatives)**
- **Villar was unseated as Speaker**
- **Nov. 20 – the Senate formally commenced the impeachment trial**
- **As required by the Constitution, the Chief Justice presided over the impeachment court**
- **Jan 16, 2001 – by a vote of 11-10, the Senators ruled against the opening of the second envelope allegedly containing evidence that Estrada had a secret bank account containing Php3.3B in the name of “Jose Velarde”**
- **Reps. Heherson Alvarez, Ernesto Herrera and Michael Defensor started the move to impeach then President Estrada**
- **More Members affixed their signatures to the impeachment complaint**



- **The public and private prosecutors walked out of the trial; Senate President Pimentel resigned**
- **Thousands of people assembled at the EDSA Shrine, calling for the resignation of Estrada**
- **Jan. 17 - the public prosecutors submitted a letter to Speaker Fuentebella tendering their collective resignation. They also filed their manifestation of Withdrawal of Appearance with the impeachment tribunal.**
- **Senator Raul Roco quickly moved for the indefinite postponement of the impeachment proceedings until the House of Representatives shall have resolved the issue of resignation of the public prosecutors. Chief Justice Davide granted the motion.**
- **Jan. 20 – Estrada and family left Malacanan and issued a press statement informing the people of his decision to leave Malacanan “for the sake of peace and order,” and “to begin the healing process of our nation.” He declared that he was unable to exercise the powers and duties of his office and that the Vice President shall be the Acting President.**

- **The House adopted a Resolution expressing its full support to President GMA. The Senate passed a Resolution declaring the impeachment court functus officio and the trial terminated.**
- **Subsequently, cases were filed against Estrada for plunder, bribery, graft and corruption**

**RELEVANT PRONOUNCEMENTS OF THE SUPREME COURT IN  
*ESTRADA v. ARROYO G.R. No. 146738; ESTRADA v. DESIERTO, G.R. Nos. 146710-15,  
March 2, 2001***

- **The Court rejected Estrada's argument that he cannot be prosecuted for the reason that he must first be convicted in the impeachment proceedings.**
- **The impeachment trial was aborted by the walkout of the prosecutors and events that led to his resignation as President.**
- **Estrada's plea, if granted would put a perpetual bar against his prosecution, and place him in a better situation than a non-sitting President, who has not been subjected to impeachment proceedings and yet can be the object of criminal prosecution.**



**RELEVANT PRONOUNCEMENTS OF THE SUPREME COURT IN  
*FRANCISCO v. HOUSE OF REPRESENTATIVES, G.R. No. 160261, Nov. 10, 2003***

- **The second impeachment complaint VIOLATED THE ONE-YEAR BAR RULE**
- **The Rule of the House that deems an impeachment complaint as initiated on the day the Committee on Justice finds that the complaint is sufficient in substance or on the date the House votes to overturn or affirm the finding of the Committee is UNCONSTITUTIONAL.**
- **The Court ruled that an impeachment proceeding IS INITIATED or begins when a verified complaint is filed and referred to the Committee on Justice for action.**
- **Consequently, NO SECOND impeachment complaint may be accepted and referred to the Committee on Justice within a period of ONE YEAR.**



## **THE OMBUDSMAN MERCEDITAS GUTIERREZ IMPEACHMENT (2010 – 2011)**

- **2 complaints filed by Baraquel group and Reyes group on different dates**
- **Complaints were included in the Order of Business, and later SIMULTANEOUSLY REFERRED to the Committee on Justice**
- **FOUNDATIONS: Culpable violation of the Constitution and Betrayal of Public Trust**
  - **Allegations mostly referred to delay and incompetence in investigation and prosecution of cases handled by the Ombudsman**
  - **Cases involving the fertilizer scam, NBN-ZTE, death of Pestano in Philippine Navy ship, Euro Generals**
- **Committee on Justice voted and determined the complaints sufficient in form and substance**

- **Gutierrez filed a Petition for Certiorari and Prohibition against the House Committee on Justice, seeking to nullify the proceedings of the Committee, raising several issues**
- **SC issued a Status Quo Ante Order. The Committee, nevertheless, continued with its meetings, and directed Gutierrez to file her Answer**
- **SC ruled that the proceedings of the House Committee on Justice were not unconstitutional, lifted the Status Quo Ante Order.**
- **Committee on Justice found that there were sufficient grounds for impeachment, and probable cause to impeach Gutierrez**
- **The Committee submitted its report and Articles of Impeachment to the Plenary, which voted in favor of the report.**
- **The Articles of Impeachment were transmitted to the Senate.**
- **Before the Senate could convene as an impeachment court, Gutierrez resigned.**

## **RELEVANT PRONOUNCEMENTS OF THE SUPREME COURT IN**

***GUTIERREZ v. HOUSE COMMITTEE ON JUSTICE G.R. No. 193459. February 15, 2011***

- **ON DETERMINATION OF SUFFICIENCY IN FORM AND SUBSTANCE**

SC applied the Rules of Criminal Procedure and said that a complaint is **SUFFICIENT IN SUBSTANCE** if it states, among other things, the name of the accused and the acts or omissions complained of as constituting the offense. Likewise, the Court ruled that the fact that the acts complained of are enumerated in the complaints, coupled with the fact that they were verified and endorsed, is enough to determine **SUFFICIENCY IN FORM**.

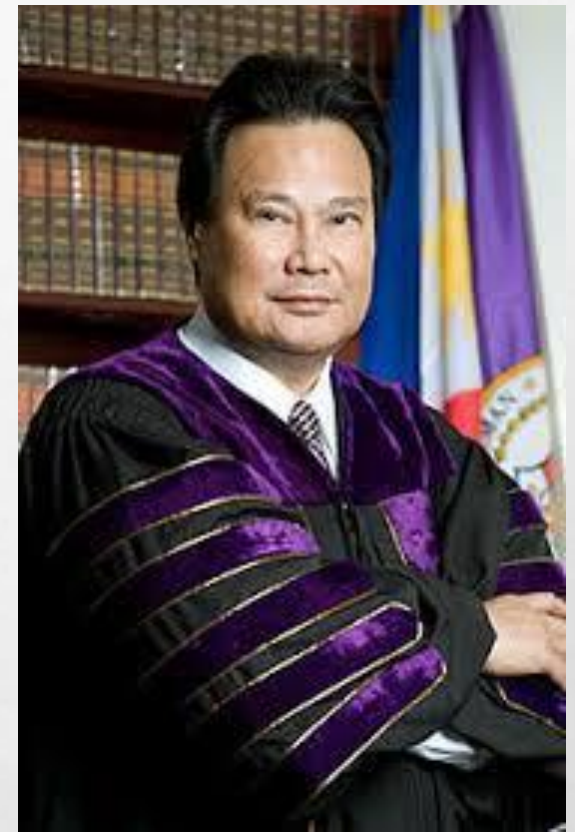
- **ON WHETHER THE SIMULTANEOUS REFERRAL OF 2 COMPLAINTS VIOLATED THE ONE-YEAR BAR RULE**

The rule prohibiting the initiation of impeachment proceedings against an official more than once within a period of one year was not violated. It likened the filing of an impeachment complaint to the lighting of a matchstick. *Lighting the matchstick alone cannot light up the candle, unless the lighted matchstick reaches or torches the candle wick.* Referring the complaint to the proper committee ignites the impeachment proceeding. With a simultaneous referral of multiple complaints filed, more than one lighted matchstick light the candle at the same time. *What is important is that there should only be ONE CANDLE that is kindled in a year, such that once the candle starts burning, subsequent matchsticks can no longer rekindle the candle.*



## **THE CHIEF JUSTICE RENATO CORONA IMPEACHMENT (2011-2012)**

- **Dec. 12, 2011 – a caucus was held by the majority bloc of the House of Representatives, where a verified impeachment complaint for impeachment was endorsed by 188 Members, or more than 1/3 of the total Members of the House. The complaint was voted on in session and ordered transmitted to the Senate.**
- **Dec. 13, 2011 – the complaint was transmitted to the Senate**
- **Dec. 14, 2011 – the Senate convened as an impeachment Court**
- **GROUND: Betrayal of Public Trust and Graft and Corruption**
  - **Issues raised against him was the violation of the doctrine of separation of powers, refusal to disclose his SALN, refusal to account for the JDF and SAJ, and arbitrariness and partiality in deciding cases, especially those involving former President Gloria Macapagal-Arroyo**
- **During the pendency of the trial, Corona filed a petition assailing the impeachment case initiated by the respondent Members of the House, and trial being conducted by the Senate**



## **RELEVANT PRONOUNCEMENTS OF THE SUPREME COURT IN *CORONA v. SENATE, ET.AL., G.R. No. 200242, July 17, 2012***

- **Corona alleged that the Senate committed grave abuse of discretion amounting to lack or excess of jurisdiction when it proceeded to trial on the basis of the complaint file by the House, which complaint is constitutionally infirm and defective for lack of probable cause. He also questioned the proceedings of the Senate. He prayed that the impeachment complaint be declared void *ab initio*. He also claimed that his right to due process was violated because some Senator-Judges were not impartial**
- **IMPEACHMENT – refers to the power of Congress to remove a public official for serious crimes or misconduct as provided in the Constitution**
- **Impeachment, described as "the most formidable weapon in the arsenal of democracy," was foreseen as creating divisions, partialities and enmities, or highlighting pre-existing factions with the greatest danger that "the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt."**
- **Given their concededly political character, the precise role of the judiciary in impeachment cases is a matter of utmost importance to ensure the effective functioning of the separate branches while preserving the structure of checks and balance in our government.**
- **ISSUES RAISED were mooted by the conclusion of the trial and the conviction of CJ Corona, who accepted the verdict and vacated his office**



## **SENATE**

**SOLE POWER to try and decide all cases of impeachment**

# **PROCEDURE**

### **SENATE CONVENES AS IMPEACHMENT COURT**

- **Upon receipt of ARTICLES OF IMPEACHMENT**
- **Senators shall be on oath or affirmation**

### **SENATE PRESIDENT SITS AS PRESIDING OFFICER**

- **Except when President of the Philippines is on trial, in which case, CHIEF JUSTICE presides**

### **JUDGMENT – REMOVAL AND DISQUALIFICATION**

- **Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold any office under the Republic of the Philippines**

### **VOTE REQUIREMENT**

- **2/3 of ALL MEMBERS OF THE SENATE**