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QUALIFICATION STANDARDS OF HOUSE OF REPRESENTATIVES AS BASIS FOR MODIFYING SECTION 6, ARTICLE VI OF THE 1987 PHILIPPINE CONSTITUTION

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INTRODUCTION

The progress of a country is largely dependent on the capacity of its leaders to make effective legislation which could help boost trade, increase competitiveness of local companies and lift the economic condition of the country in general. **Policy competency** is an important ingredient for success for every country. An adequate degree of **policy competency** is necessary to understand what might result from the **policymaking** process that could affect a fundamental interest to the public and to effectually participate in the **policymaking** process.

Qualification standards primarily refers to knowledge, skills, abilities, characteristics and other competency requirements necessary to uphold the morals and ideals of organizations or units of governance. In the present situation in the Philippines, provided in Section 6, Article VI of the 1987 Constitution is that: No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the electionⁱ. Under the 15th Congress (2010-2013)ⁱⁱ, the primary duty of Members of the House of Representatives is to legislate. In order to fulfil this duty, Members shall: (a) prepare, introduce and work for the passage of legislative measures to effectively address social, political and economic needs and concerns; (b) attend plenary sessions and

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meetings of committees of which they are members or where their proposed legislative measures are under consideration; (c) participate actively in deliberations on legislative measures; (d) articulate faithfully the demands and interests of their constituencies as well as those of other sectors that are affected by proposed legislative measures or by conditions, issues and concerns requiring legislative action; (e) secure, through every lawful means possible, any and all data and information relevant and necessary for the determination and formulation of appropriate legislative actions and measures on public issues and concerns; (f) make information pertaining to the performance of their legislative and constituent functions and duties available to the public; and (g) perform such other functions and activities as may be lawful and necessary to ensure the swift passage of legislative measures needed to effectively address social, political and economic needs and promote national development, as well as the efficient and timely conduct of legislative oversight.

For so many years, the dysfunctional policy makers of the Philippines have been a major cause of economic slowdown. The shrinkage of knowledge and intellectual capacity of our legislatures has caused the sluggish passing of policies and bills in the upper and lower houses. The lack of stipulation on academic and competency requirements for Senators and the House of Representatives in the Philippine Constitution aggravated this issue; many of the legislatures now are not competency-wise qualified to perform their functions.

In view of the foregoing, this research intends to influence a reshape in the qualification standards in the Congress specifically of the House of Representatives in addition to the existing stipulation instituted in the Philippine Constitution. The study will establish at the start a matching between job description and job specification of the House of Representatives. Where the general legislative power of the House of Representatives consists of the enactment of laws intended as a rule of conduct to govern the relation between individuals (i.e., civil laws, commercial laws, etc.) or between individuals and the state (i.e., criminal law, political law, etc.). Evidently, with this nature of responsibility, the House of Representatives to carry out its function effectively primary aim of this research is to make the legal system of this country resilient and highly professionalized specifically in the house of congress. Furthermore, the scope of the study also includes establishing succession plan proposal, the proposal will guide

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in instituting training and development of the identified highly potential aspiring lawmakers. The researcher perceived that the succession plan part will stimulate equilibrium between the defined qualification standards and the country's democratic governance.

FRAMEWORK OF THE STUDY

Max Weber Economic Capitalism

The best-known historical research conducted is a series of studies begun in 1934 by the German sociologist Max Weber, his theory about "Law and Rise of Capitalism" was reconstructed by David M. Trubek in 1972. Max Weber offered the theory that religion was a major cause of social behavior and, in particular, of economic capitalism. A more recent study is that of Robert N. Bellah, who examined historical documents pertaining to Japanese religion during the late 1800s and early 1900s. He concluded that several emergent religious beliefs, including the desirability of hard work and the acceptance of being a businessman, heretofore a low status role, were instrumental in setting the stage for the growth of capitalism in Japan. These conclusions paralleled those of Weber's earlier studies of Calvinism in Europe. Weber also concluded that capitalism failed to develop in the early societies of China, Israel, and India because none of their religious doctrines supported the essential capitalist idea of accumulation and reinvestment of wealth as a sign of worthiness.

Max Weberⁱⁱⁱ dedicated much of his energy to explaining why industrial capitalism arose in the West. While he recognized that this was an historical issue, Weber did not limit himself to historical methods. Rather, he attempted to construct a sociological framework which could guide historical research. This framework identified the main analytic dimensions of society and the concrete structures that correspond to them. Weber focused on polity, social structure, economy, religion, and law, and the political, social, economic, religious, and legal structures of given societies. He felt that these dimensions, with their associated structures, must be separated and investigated so that their interrelationships in history can best be understood. Using these methods, he argued, particular events in history that can be explained. The "event" he sought to explain was the fact that the modern system of industrial (or "bourgeois") capitalism emerged in Europe but not in other parts of the world. Law, he felt, had played a

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part in this story. European law had unique features which made it more conducive to capitalism than were the legal systems of other civilizations. To demonstrate and explain the significance of these features for economic development, Weber included the sociology of law within his general sociological theory. Thus the monumental treatise *Economy and Society*, which sets forth a comprehensive analysis of his sociological thought, includes a detailed discussion of the types of law, a theory of the relationship between law and the rise of industrial capitalism, and comparative sociological studies which attempt to verify his theory. Weber's decision to include law within a general sociological theory can be explained not only by his personal background as lawyer and legal historian, but also by the methods he employed to trace the rise of the distinctive form of economic activity and organization he called bourgeois capitalism. Weber was concerned with explaining the rise of capitalism in the West. This meant he had to discover why capitalism arose in Europe and not in other parts of the world. The way to do this, he thought, was to focus on those aspects of European society which were unique, and which, therefore, might explain why capitalism developed there. This technique is clearly seen in his sociology of law and sociology of religion. The latter examines the relationship between unique features in Western religious life and "the spirit of capitalism," while the former identifies unique features of Western legal systems which were especially conducive to capitalist activity. While Weber believed that Western law had particular features which helped explain why capitalism first arose in Europe, he did not think that the West alone had "law." Weber had a broad concept of law that embraced a wide range of phenomena in very differentsocieties. Nevertheless, he drew sharp distinctions between the legal systems of different societies. Most organized societies have law," but the European legal system differs significantly from others. He developed typologies that permitted him to distinguish European law from the legal order of other civilizations, and then conducted historical studies designed to show the origins of the unique features of European law. At the same time, through parallel theoretical analysis, Weber found it possible to show how a certain type of legal system fitted the needs of capitalism. Finally, he returned to history in order to demonstrate that, of all the great civilizations-Europe, India, Islam, China-only Europe developed this particular type of law. Since, at the same time, capitalism arose first in Europe, this analysis suggested very strongly that European law played an important role in the emergence of the capitalist economic system.

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Weber stressed his belief that the unique legal aspects of European society were not the mere result or reflex of economic phenomena. He explicitly and repeatedly denied that the special features of European legal systems were caused by capitalism itself. Rejecting the Marxian deterministic theory which held that legal phenomena were caused by underlying economic forces, he demonstrated that what was unique in the European legal systems had to be explained by such noneconomic factors as the internal needs of the legal profession, and the necessities of political organization. Economic factors specifically, the economic needs of the bourgeois classes were important but not determinative in shaping the particular legal institutions of Europe. These institutions differed from those of other civilizations in their formal and structural qualities or as Weber somewhat misleadingly put it, in their degree of "rationality." The uniqueness of European law and the affinities between this system and capitalism lay not so much in the content of substantive provisions as in the forms of legal organization and the resulting formal characteristics of the legal process. Weber's contrasts between the legal systems of Europe and such civilizations as China did not focus on the presence or absence of specific rules of law, although these were not ignored. Rather he was concerned with such questions as whether legal organization is differentiated or is fused with political administration and religion, whether law is seen as a body of man-made rules or as a received corpus of unvarying tradition, whether legal decisions are determined by prior general rules or are made on an ad hoc basis, and whether rules are applied universally to all members of a polity or if specialized law exists for different groups. The European legal system was distinct in all these dimensions.

Unlike the legal systems of other great civilizations, European legal organization was highly differentiated. The European state separated law from other aspects of political activity. Specialized professional or "status" groups of lawyers existed. Legal rules were consciously fashioned and rulemaking was relatively free of direct interference from religious influences and from other sources of traditional values. Concrete decisions were based on the application of universal rules, and decision making was not subject to constant political intervention.

Thus, Weber believed that European law was more "rational" than the legal systems of other civilizations, that is, it was more highly differentiated (or autonomous), consciously

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constructed, general, and universal. But he also attempted to show that no other civilization had been capable of developing this type of legal order. European law was the result of the interaction of many forces. Its ultimate form was shaped not only by very distinct features in Western legal history especially the Roman law tradition and aspects of medieval legal organization it was also molded by general and often distinct trends in the religious, economic, and political life of the West. The other civilizations he studied lacked this special legal heritage, and failed to develop the religious ideas, political structures, and economic interests which facilitated the growth of rational law in Europe. The failure of other civilizations to develop rational law helped explain why only in Europe such modern, industrial capitalism could arise. Weber believed that this type of capitalism required a legal order with a relatively high degree of "rationality." Since such a system was unique to the West, the comparative study of legal systems helped answer Weber's basic question about the causes of the rise of capitalism in Europe.

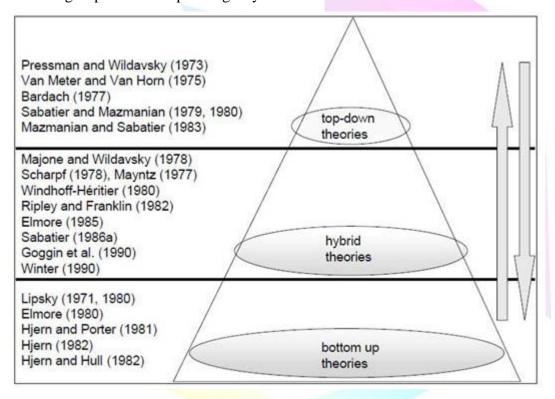
Policy Implementation Theory

Specifically, this study recognized the fact that policy in the country starts at the top, and its implementation channel is top-down, however, with regards to the impact of policy implementation and its compliance, the assessment should start at the bottom, and, such that, the result of the assessment will serve as guide in in the amendment and modification of laws. This study believes that a mix of two or more theories on implementation or hybrid theory will cause an effective public policy implementation, wherein, the implementation will most probably encompass all problems and failures and will impact smooth sailing implementation and compliance to all not just the governing body but to the implementing body and public as well.

Teorell, R. (2008)^{iv}, states that the recent growth in research on "good governance" and the quality of government institutions has been propelled by empirical findings that show that such institutions may hold the key to understanding economic growth and social welfare in developing and transition countries. There was an argument, however, that a key issue has not been addressed, namely, what quality of government (QoG) actually means at the conceptual level. Based on analyses of political theory, we propose a more coherent and specific definition

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of QoG: the impartiality of institutions that exercise government authority. We relate the idea of impartiality to a series of criticisms stemming from the fields of public administration, public choice, multiculturalism, and feminism. To place the theory of impartiality in a larger context, we then contrast its scope and meaning with that of a threefold set of questions as whether legal organization is differentiated or is fused with political administration and religion, whether law is seen as a body of man-made rules or as a received corpus of unvarying tradition, whether legal decisions are determined by prior general rules or are made on an ad hoc basis, and whether rules are applied universally to all members of a polity or if specialized law exists for different groups. The European legal system was distinct in all these dimensions.



According to O'toole, L. (2004)^v, applying implementation theory to practice has been rare. Reasons include the difficulty of the theoretical challenge, the varied needs of practitioners and the complicating normative issues at stake. Nonetheless, several approaches can contribute to the efficacy of implementation action. Building on points of theoretical consensus is one strategy. A second is the systematic probing of points in theoretical dispute, to sketch out practical implications. A third is the development of a contingency perspective to determine which theoretical strands may be appropriate in a given case. Finally, tapping the emerging

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ideas built on a synthesis of partial perspectives is ultimately likely to be the most useful approach. New methodological tools can help select out valid high-performing instances for systematic inspection and possible emulation. And some of the synthetic perspectives now available are amenable to heuristic application; these include approaches based upon reversible logic, game-theoretic notions and contextual interaction theory.

DeGroff A. and Cargo, M. (2009)^{vi}, states that policy implementation reflects a complex change process where government decisions are transformed into programs, procedures, regulations, or practices aimed at social betterment. Three factors affecting contemporary implementation processes are explored: networked governance, socio-political context and the democratic turn, and new public management. This frame of reference invites evaluators to consider challenges present when evaluating macro-level change processes, such as the inherent complexity of health and social problems, multiple actors with variable degrees of power and influence, and a political environment that emphasizes accountability. The evaluator requires a deep and cogent understanding of the health or social issues involved; strong analysis and facilitation skills to deal with a multiplicity of values, interests, and agendas; and a comprehensive toolbox of evaluation approaches and methods, including network analysis to assess and track the interconnectedness of key champions (and saboteurs) who might affect intervention effects and sustainability.

According to Alexander, E. (1985)^{vii}, implementation studies appearing since 1973 show a disappointing lack of convergence that may be due to different, often implicit, conceptualizations of implementation. They range from "classical" linear models linking policy or statute with execution to "circular, "adaptive," or "evolutionary" concepts that envisage a more dynamic interaction between the making and implementation of policy. It is suggested that the wide range of possible situations calls for a contingent theory linking policy to implementation. Such a theory demands a conceptual model that is abstract enough to accommodate diversity and to recognize that failure to implement policies or programs is not an aberration. A model is presented that meets these specifications: The Policy-Program-Implementation Process (PPIP) model, which can serve as a conceptual framework for developing contingent theories of policy implementation in the future.

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LEGAL BASES

Explicitly stated in the 15th Congress^{viii} is that: The Members of the House of Representatives of the Republic of the Philippines, in order to fulfil their constitutional duty to make laws that effectively respond to the needs of the people and fulfil their aspirations for a just and humane society where every Filipino can enjoy the blessings of freedom and democracy under a Government strengthened by the rule of law, social justice and people empowerment, shall hereby promulgate and pledge faithful obedience to the Rules. Further, they shall uphold public office as a public trust, the House of Representatives and every Member thereof are accountable to the people at all times. They shall perform their legislative mandates with utmost competence, efficiency, effectiveness, integrity and fidelity to the people's welfare. Efficient and effective access to and dissemination of appropriate and accurate information are imperative in lawmaking. The development of institutional capabilities to harness technology to improve the legislative process and to inform the public of legislative concerns shall be pursued vigorously². The harnessing and development of a competent and efficient corps of professionals able to provide necessary legislative support services is a paramount concern. Programs for the recruitment, training and development of qualified professionals and the establishment of appropriate organizational systems to best utilize their talents and skills to enhance institutional legislative performance shall be undertaken².

Provided in Section 2 of Republic Act 9485^{ix} is that: It is hereby declared the policy of the state to promote integrity, proper management of public affairs and public property as well as to establish effective practices aimed at the prevention of graft and corruption in government. Towards this end, the State shall maintain honesty and responsibility among its public officials and employees, and shall take appropriate measures to promote transparency in each agency with regard to the manner of transacting with the public, which shall encompass a program for the adoption of simplified procedures that will reduce red tape and expedite transactions in government⁸.

PROPOSED QUALIFICATION STANDARDS OF THE HOUSE OF REPRESENTATIVES

Qualification standards in this study primarily refers to knowledge, skills, abilities, characteristics and other competency requirements necessary to uphold the morals and ideals of the House of Representatives.

Qualification Standards in this research is described in details in Table I below:

Table I – Qualification Standards of House of Representatives

HOUSE OF REPRESENTATIVE JOB SPECIFICATION

Qualifications and Training:

- 1. Degree/Diploma of Bachelor of Laws
- 2. Attorney at Law
- 3. Master in Management/Public Administration or other related master degrees
- 4. Career Service Executive Eligibility (Stage II minimum requirement)

Practical Skills:

- 1. Must have sufficient knowledge on civil laws, commercial laws, criminal laws, political laws, etc.
- 2. Must have adequate awareness and knowledge of the law/policy making process.
- 3. Must have satisfactory orientation and knowledge pertaining to legislative, inherent, implied, executive, electoral, judicial and miscellaneous powers of the congress.
- 4. Must be aware of the political, economic, social and technological environment.
- 5. Must be able to demonstrate excellent leadership and managerial skills.

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- 6. Must have good communication skills written and verbal.
- 7. Must possess adequate knowledge on financial management, investment, economics and accounting.
- 8. Should possess high standards of morals, ideals, values and character.

Succession Plan in view of this research refers to the process of identifying highly potential aspiring policy-makers, and providing them with training and development. Succession Plan is described in details in Figure I below.

Figure I – Proposed Succession Planning



ANALYSIS

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According to International Monetary Fund Statistics (2016), the economy of the Philippines is the 40th largest in the world, and the country is also regarded as one of the world's emerging markets having a GDP growth of 7.8%. The Philippines is also considered as a newly industrialized country, shifting its focus from one based in agriculture to services and manufacturing. Goldman Sachs estimates that by the year 2050, the Philippines will be the 14th largest economy in the world. Goldman Sachs listed the country in the list of the Next Eleven Economies. Further HSBC, in its forecast stated that the Philippines will become the 16th largest economy in the world, 5th largest economy in Asia, and the largest economy in the Southeast Asian region by 2050^x.

Despite the good statistics provided by analysts regarding the Philippine economy, Philippines is still combating economic issues. The inflation rate had reached the lowest level in 2012, old problems still exist, and corruption and rasping infrastructure are continuously hurting the nation's security and stability. Looking at the present state, the government's strength is simply linked to rigid economic management, which includes cutting government spending and focusing efforts in improving revenue through rigorous tax collection.

At present, the Philippines is no exemption of the anguish experience by many countries around the world caused by the COVID-19 pandemic. At the peak point of this emergency crisis, the government's economic response was to cover the needs of the extreme medical measurers which could last three months. Congress enacted in a special session additional powers to enable the President to confront the new crisis. This is Republic Act 11469 known as "Bayanihan to Heal as One Act." The law gives the President the power to reallocate and to reprogram P275 billion (or 62 percent) of the previously approved P438 billion budgets for 2020. Generally, this is to enable the government to cope up with the budgetary requirements of providing a comprehensive social protection network for the citizenry and to toughen the fight against the COVID-19 pandemic. The efforts taken will grant subsidies to those deprived of income resulting from loss of work due to the lockdown measures of government. The money is intended to replace the wages they would have earned in employment. It also includes some supplements for the targeted Pantawid program to help very poor families due to the COVID-19 crisis. In short, the subsidy is like "helicopter money" to help those who have lost purchasing power arising from the lockdown measures. If implemented quickly and in a timely

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manner for those in need, the measure would make up for lost demand (or purchasing power) in the economy. In addition, the law would allow the government to temporarily take over or direct the operations of public utilities and privately owned health facilities, including the distribution and storage of medical relief during the public emergency. The inevitable impact of the lockdown measures was to create dislocation of the economy. Much more than amelioration of the economic conditions, is the need to protect the economy to restore economic activity and to resume growth. Demand needs to be restored and the sinews of the economy have to flex somehow. With many developing countries facing the prospects of a deep recession, the Philippines could further turn to institutions that will assist in weathering the storm. The government could take advantage of the facilities that multilateral global institutions are offering to mitigate the impact of COVID-19 and help restore economic growth. The IMF and the World Bank, and other development banks are improvising programs to help those severely affected by the pandemic. Government economic managers are studying how, with the assistance of these institutions, the path toward growth might be helped. The government has to adopt important fiscal and monetary policies to help restore the path of growth. Finance Secretary Carlos Dominguez is studying the preparation of such programs to improve the economy's recovery. Much more needs to be known, he says, on the nature of economic support from the assistance programs. The COVID-19 pandemic, however, has changed the outlook for many economies. For the Philippines, the threat would likely be centered on a failing Balance of Payments position that has to be bolstered up. Or a relief must be provided while the escalation of government spending and the fall of revenues which had weakened the fiscal position of the government. In such cases, support from the external institutions would be justified. Such support would also aid to bounce back the economy of the country. Such programs would make it possible to continue the Build Build Build programs of infrastructure expenditure. These major projects could be finished more quickly if the government had much more support from multilateral lending institutions^{xi}.

Filipinos have witnessed the pandemic-unpreparedness this country has portrayed throughout this present emergency crisis. The fact that the country needs to promulgate laws to counter the impact of this crisis from time to time is a concrete proof of its lack of legislations to effectively manage the pandemic. The ineffectiveness of the policy-makers especially the House of

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Representatives in the enactment of laws before the occurrence of this pandemic is severely hurting the government's response in flattening the curve of the COVID-19 cases. Other countries have already experienced a number of waves in the combat of COVID-19, and reached the peak resolution for those waves, however, in the Philippines how to flatten the curve is still an impossible reality to grasp.

The crisis we have now has awakened most Filipinos that policy-makers with great strategy are what this country actually needs. As argued by Max Weber, highly professionalized legal system comprising people with law profession will not only help the country boosts its economy but also in arming it to effectively and efficiently confront different kinds of contingencies. Thus, this research highly suggests that the Philippines shall revisit the stipulation under Section 6, Article VI of the 1987 Constitution on the qualification standards required of the House of Representatives. This research posits that the existing standards required under the provision of the Constitution are not anymore aligned and applicable in order for the country to cope up with the challenges of the present time.

CONCLUSION

Section 6, Article VI of the 1987 Philippine Constitution has in itself becomes unconstitutional and repugnant to general laws. It contravenes its primary role of protecting the State and of promoting its utmost development. The provision in itself is contrasting of its own rules which are embodied in its whole embodiment as a State. This research theorized that having House of Representatives with very low Qualification Standards is already unreasonable under the principles of law due to the extensive demand of globalization, environmental, social, economics, among others. With such provision this country has its silent cry that the present legislature will be able to comprehend the enormous need to upgrade the qualification standards of the House of Representatives in order to uphold and promote great leadership which they ignored for a long period of time. Wherein, this can only be resolved through increasing the qualification standards of its policy-makers as well as the other government elected officials.

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Max Weber argued that highly professionalized legal system of European countries had made Europe advanced in terms of economic development from any other civilizations in the world. This theory has been ignored by most of the third world countries, most probably, one of the reasons why these countries are struggling to achieve economic prosperity up to this date. Furthermore, Weber argued that a legal system in order to be effective needs to comprise of policy-makers with law profession. Highly professionalized legal system will enable countries to be prepared in confronting contingencies. Correspondingly, in the different policy implementation theories presented, theorists stated that in order for policy-making and implementation to be effective, the policy-makers need to apply highly pragmatic systems in the formulation, implementation and compliance of policies. This can only be attained if the Philippine legislation is highly professionalized.

The stipulation of the 15th Congress and R.A. 9485 clearly demonstrate that the provision under Section 6, Article VI of the Philippine Constitution is repugnant in itself of its own laws. Irony as it may seem, under Section 3, Article XVI of the Philippine Constitution which states that: The State may not be sued without its consent, in which the reality is, this stipulation has been inaudibly happening in our country for decades. It is the major objective of this research to open the eyes of the State that stipulation of Section 6, Article VI of the Constitution is actually killing the State through allowing indirectly its consent to sue itself. This can be depicted by the significant number of ordinances, orders, etc. in the provincial level being nullified because these enactments did not pass muster the tests of validity and constitutionality. The fact that many elected officials are facing enormous graft and corruption cases today, has made the recommendation of this research more worthy for judicial review.

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