

**THE THREE MOST IMPORTANT FEATURES OF THE PHILIPPINE
LEGAL SYSTEM THAT OTHERS SHOULD UNDERSTAND**

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1. The harmonious blending of common law and civil law in one legal system

The Philippine legal system today is a unique blending of common law and civil law principles. Its public law is substantially patterned after common law doctrines, while its private law follows the civil law tradition of Spain.

This unusual mixture of common law and civil law in one legal system is the inevitable result of its colonial history. The Philippines was a colony of Spain for over three hundred years and was under the American colonial regime for about half a century.

From the beginning of the Spanish era up to 1898 when the Americans defeated the Spaniards in the Spanish-American war, the civil law system of Spain was adopted in the Philippines. From December 10, 1898, when Spain ceded the Philippines under the Treaty of Paris to the United States up to July 4, 1946 when the U.S. colonial regime formally ended, common law or public law principles in the United States were engrafted in the Philippine legal system. Thus, the Philippine private law at present such as the law on persons and family relations, obligations and contracts, and succession, among others, are substantially patterned after the civil code of Spain. On the other hand, its public law, notably constitutional law, administrative law, and the law on public offices, among others, are to a great extent based on American law.

2. The doctrine of Separation of powers between the Executive, Legislative, and Judicial branches of government

It is noteworthy that the Constitution of the Philippines bears the imprint of certain dominant principles embedded in the U.S. Federal Constitution. Starting with the 1935 Constitution to the 1973 Constitution, and the current Constitution of 1987, the concept of separation of powers between the Executive, the Legislative, and the Judicial branches of government has been consistently recognized. The doctrine of separation of powers is designed to prevent tyranny by preventing the concentration of the sovereign powers of state in one body. It is in harmony with the first principle enshrined in Section 1 Article III of the present Constitution which expressly recognizes that the Philippines is a democratic and republican State.

3. The power of Judicial Review and the Bill of Rights in the Constitution

The important role of judicial review in the Philippine constitutional or legal system cannot be overemphasized. In fact, under the present constitution, the

certiorari power of the Supreme Court has been expanded by Section 1 Article 8 thereof to include the determination “whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.”

Pursuant to the establishment of a democratic and republican state where sovereignty resides in the people, the philippine constitution devotes an entire article on a Bill of Rights. Among the rights guaranteed by Article III are the following: 1) The right to due process, 2) the right to equal protection of the laws, 3) the right against unreasonable searches and seizures, 4) privacy of communication, 5) freedom of speech, of expression, or of the press, 6) the right to peaceably assemble and petition the government for redress of grievances 7) the free exercise of religious worship, 8) the liberty of abode and the right to travel, 9) the right to information on matters of public concern, 10) the right to form unions, associations or societies for purposes not contrary to law, 11) the right to counsel, 12) the privilege against self-incrimination, 13) the right to bail, 14) the right to be presumed innocent until the contrary is proved, 15) the privilege of the writ of *habeas corpus*, 16) the right against double jeopardy, and 17) the right against *ex post facto* law or bills of attainder.

Over the years the Philippine Supreme Court has rendered leading or landmark decisions interpreting and expounding on the meaning and scope of the constitutionally guaranteed rights. Quite a number of these decisions were influenced by relevant U.S. Supreme Court decisions on Constitutional Law. Today, it can be fairly said that the Philippine Supreme Court has, to its credit, established a consistent record of enhancing and protecting the constitutionally guaranteed rights through the exercise of its power of Judicial review.