Constitutional Review

The disavowal of any law or decision of the Legislature as repugnant to or inconsistent with the Constitution under Article 179.2 is accompanied by corresponding mechanism for the constitutional review of such enactments established by Articles 140 and 144. Analogous mechanism is provided for by Article 146 with regard to action or inaction of organs and departments of the Executive in the exercise of executive or administrative authority. Moreover, Articles 137, 138, 141, 142 and 143 make provision for the review of the constitutionality of specific laws and decisions by reference to the Constitution or distinct provisions of it. Article 139, as earlier noted, makes provision for the resolution of conflicts or contests of power between organs or authorities of the Republic at the instance of the Executive or the Legislature or an organ or authority of the Republic involved in such a dispute.

I. Electoral Jurisdiction

The process for the election of the President of the Republic and the Vice-President of the Republic, members of the House of Representatives and other elected bodies is subject to review by the Supreme Constitutional Court\(^\text{26}\) in exercise of jurisdiction vested in it by Articles 85 and 145.

\(^{26}\) Later merged in the Supreme Court.
Electoral jurisdiction encompasses the review of the qualifications of candidates and the electoral process itself with a view to determining whether the election was held and conducted in accordance with the law and whether the result accurately reflects the choice of the electorate.

The holding of elections, the system of representation in the House of Representatives and the modalities of voting are not dealt with by the Constitution but are left to be regulated by law. An electoral law, as judicially noticed, must conform to constitutional norms including those enshrined in Article 31 assuring the right to vote to every citizen in every election held under the Constitution. Article 31 safeguarding a citizen’s right to vote does not prescribe an age qualification for the exercise of this human right. Article 63.1 confines the right to vote to persons who have attained the age of 21. A law enacted by the House of Representatives lowering the age limit to 18 was declared unconstitutional in President of the Republic v. House of Representatives (1985) 3 C.L.R. 2331 (P)27 on grounds of incompatibility with Article 63.1. While the Court recognized that the measure was politically desirable and socially beneficial, it rejected the plea that the law could be sustained in virtue of the law of necessity. As noticed in one of the judgments28 given, “recourse to the law of necessity would be justified only if the electoral body would become inert without the participation of the new class of voters”.

The Constitution does not prescribe any particular system of representation leaving the matter to be regulated by the Legislature. Any system may be adopted that does not thwart or distort the right of a person to participate in elections on an equal footing with everybody else. Implicit in the assured right to vote is the attachment of equal weight to every vote. The right of equality before and under the law guaranteed by Article 28 would not allow or permit any distinction or differentiation in this or any other respect.

The breadth of the electoral jurisdiction of the Supreme Court was examined in Angelides v. Petas a.o. (1987) 1 C.L.R. 450 (FB).29 The Court found that the electoral jurisdiction of the Supreme Court extends under the terms of Articles 85 and 145 to every issue relating to elections including the constitutionality of the provisions of the electoral law but not to matters following thereafter. Thus, in President of the Republic v. House of

---

27 Judgments delivered by Triantafyllides P. and Pikis J.
28 That of Pikis J.
29 Judgment delivered by Triantafyllides P.