

CONSTITUTIONAL LAW 2
Ateneo de Manila University School of Law
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CHAPTER SUMMARIES

Chapter 1: Introduction

Constitutional law – The study of the maintenance of the proper balance between authority as represented by the three inherent powers of the state and liberty as guaranteed by the Bill of Rights.¹

The three fundamental powers of the state are:

1. Police power
2. Power of eminent domain
3. Power of taxation

These powers and the rights are not necessarily hostile to each other, but they countercheck each other.

Chapter 2: The nature of the constitution

Definitions of a constitution:

1. That body of rules and maxims in accordance with which the powers of sovereignty are habitually exercised (Thomas M. Cooley).
2. The written instrument enacted by direct action of the people by which the fundamental powers of the government are established, limited and defined, and by which those powers are distributed among the several departments for their safe and useful exercise for the benefit of the body politic (Justice George A. Malcolm).

Purposes of a constitution:

1. Prescribe the permanent framework of a system of government
2. Assign to the several departments their respective powers and duties
3. Establish certain first fixed principles on which government is founded²

Does the constitution, then, create and bestow the rights enumerated therein?

- No. Certain basic individual rights (e.g., religious freedom) are merely recognized and protected by the constitution. The constitution is not the origin of private rights—it is a consequence of personal and political freedom (sovereignty).

Constitutional supremacy

- The constitution is the basic and paramount law to which all other laws must conform and to which all persons, including the highest officials of the land, must defer.

Classifications of a constitution:

1. Written or unwritten
2. Evolved or enacted
3. Rigid or flexible

The constitution of the Philippines is written, conventional, and rigid.

Essential qualities of the written constitution

1. Broad – It must embody the past, present and future.
2. Brief – It must confine itself to brief principles to be implemented by legislation.
3. Definite – It must be clear or definite lest ambiguity results in confusion.

¹ PHIL. CONST. art. III.

² See *generally* PHIL. CONST. art. II.

- a. Exception: When constitutional provisions are deliberately vague worded to make them more malleable to judicial interpretation.³

Essential parts of a written constitution

1. Constitution of liberty – Setting forth the civil and political rights of the citizens, and imposing limitations on the powers of the government.⁴
2. Constitution of government – A series of provisions outlining the organization, powers, and rules of the government, as well as its electorate.⁵
3. Constitution of sovereignty – This is the procedure or mode to brought about formal changes to the constitution.⁶

Permanence of the constitution

- The constitution's capacity to resist capricious and whimsical change dictated only by passing fancies, temporary passions, or occasional infatuations of the people with ideas or personalities.
- But if the written constitution becomes an impediment from progress, the people may have to resort to a violation of the provisions of the constitution.
 - o If they cannot make a new constitution, they will have to make a revolution.⁷

Constitutional construction

- It should be interpreted as to give effect to the intent of the framers.
 - o Discoverable either in the document itself (intrinsic), or through the records of the constitutional convention (extrinsic).
- It should be interpreted according to the changes inevitably transpiring in the history of the nation (a living constitution).
- Self-executory (rather than non-self-executing)
- Mandatory (rather than directory)
- Prospective (rather than retrospective)

Amendment or revision⁸

1. Amendment – Isolated or piecemeal change
2. Revision – A revamp or rewriting of the whole instrument.

Procedure:

1. Proposal – Usually made either directly by Congress, or by a constitutional convention. A special case is provided for where the proposal may be made directly by the people through initiative.⁹
2. Ratification – Amendments or revisions become valid upon ratification of the majority of the votes cast in a plebiscite which shall be held between 60 to 90 days upon approval of said amendment/revision by Congress, or, in the case of initiative, after the certification by the COMELEC of the sufficiency of the petition.¹⁰
 - o The ratification may be held alongside a regular election (e.g. a midterm or presidential election).¹¹
 - o In the case of revision, the entire proposed constitution or revision must be submitted for ratification at one plebiscite only.¹²

³ See PHIL. CONST. art. III, § 1. The provision reads: "No person shall be deprived of life, liberty or property without due process of the law, nor shall any person be denied the equal protection of the laws."

⁴ These are found in PHIL. CONST. arts. II-V & XII.

⁵ These are found in PHIL. CONST. arts. VI-XI.

⁶ See PHIL. CONST. art. XVII.

⁷ See Republic v. Sandiganbayan, G.R. No. 104768, July 21, 2003 [Per J. Caprio, *En Banc*].

⁸ Lambino v. COMELEC, G.R. No. 174153, October 25, 2006 [Per J. Caprio, *En Banc*]. It discussed the difference between an amendment and a revision. Generally, two tests may be applied: the quantitative and qualitative tests.

⁹ PHIL. CONST. art. XVII, §§ 1-3.

¹⁰ PHIL. CONST. art. XVII, § 4.

¹¹ Gonzales v. COMELEC, G.R. L-28196, November 9, 1967 [Per C.J. Concepcion, *En Banc*] and Occena v. COMELEC, G.R. L-52265, January 28, 1980 [Per J. Antonio, *En Banc*].

¹² Tolentino v. COMELEC, G.R. L-34150, October 16, 1971 [Per J. Barredo, *En Banc*].

May the courts review the validity of the adoption of amendments to the constitution?

- Yes. Jurisprudence allows the courts to inquire whether the prescribed procedure for amendment has been observed.¹³
 - o Hence, the judiciary may declare invalid a proposal adopted by less than three-fourths of the members of Congress, or a call for a constitutional convention by less than two-thirds of the Congress, or a ratification made by less than a majority of the votes cast, or a plebiscite irregularly held.

Chapter 3: The constitution and the courts

Requisites of a judicial inquiry:

1. An actual case or controversy
2. The question of constitutionality must be raised by the proper party (*locus standi*)
3. The constitutional question must be raised at the earliest possible opportunity
4. The decision of the constitutional question must be necessary to the determination of the case itself (*lis mota*)

(1) Actual case

- Involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution.
 - o There must be contrariety of legal rights that can be interpreted and enforced based on existing law and jurisprudence.
 - o The controversy must be definite and concrete, real and substantial.
- The issuance of an advisory opinion fails this requirement as the issue raised does not involve any conflict in law.
 - o Counseling by the courts is contrary to the doctrine of separation of powers.
- Advisory opinions must be distinguished from declaratory judgment.¹⁴
- When an act of Congress is seriously alleged to have infringed the constitution, settling the controversy becomes the duty of the Supreme Court.
 - o By the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy even without any other overt act.¹⁵
- Generally, the court will not take cognizance of moot issues. However, the “moot and academic” principle is not a magical formula that can automatically dissuade the courts in resolving a case. The exceptions to the mootness doctrine are:
 - o If there is a grave violation of the constitution
 - o The exceptional character of the situation and the paramount public interest is involved
 - o When the constitutional issue raised requires the formulation of controlling principles to guide the bench, bar, and public
 - o The case is capable of repetition yet evading review¹⁶

(2) Proper party

- A proper party is one who has sustained or is in immediate danger of sustaining an injury because of the act complained of (direct injury test).
 - o Until and unless such actual or potential injury is established, the complainant cannot have the legal personality to raise the constitutional question.

¹³ Mabanag v. Lopez Vito, G.R. No. L-1123, March 5, 1947 [Per J. Tuason, *En Banc*] and Sanidad v. COMELEC, G.R. No. L-44640 [Per J. Martin, *En Banc*]. See also Tañada v. Cuenco, G.R. No. L-10520, February 28, 1957 [Per J. Concepcion, *En Banc*], which defined political questions.

¹⁴ 2019 AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE, rule 63, § 1.

¹⁵ Pimentel v. Aguirre, G.R. No. 132988, July 19, 2000 [Per J. Panganiban, *En Banc*], granting the petition for Certiorari and Prohibition assailing AO 372 for violating the autonomy of local governments. See Tañada v. Angara, G.R. No. 118295, May 2, 1997 [Per J. Panganiban, *En Banc*].

¹⁶ David v. Macapagal-Arroyo, G.R. No. 171396, May 3, 2006 [Per J. Sandoval-Gutierrez, *En Banc*]. The case granted the petition for Certiorari and Prohibition assailing PP 1017, despite the president’s revocation of the same.

- That is the general rule. Jurisprudence, however, has clothed the following with legal standing in particular cases:
 - o Taxpayers – When it is established that public funds from taxation have been disbursed in alleged contravention of the law or the constitution.
 - o Legislators – When the claims involve that the official action complained of infringes upon their prerogatives as lawmakers.
 - o Voters – With respect to the implementation of election laws, provided that there must be a showing of obvious interest in the validity of the election law in question.
 - o Transcendental importance – When the issue raised is of paramount public interest,¹⁷ of utmost and far-reaching constitutional importance,¹⁸ and the presence of a clear disregard of a constitutional or statutory prohibition.
 - o Citizens – When the issue concerns a public right, such as the right to information, and the freedom of expression.
 - But in *Francisco v. Fernando*,¹⁹ the court held that a citizen could raise a constitutional question only when:
 1. He can show that he has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government
 2. The injury is fairly traceable to the challenged action
 3. A favorable action will likely redress the injury.
- Laws also confer legal standing, such as:
 - o Citizens suit (including minors and generations yet unborn) under the Rules of Procedure for Environmental Cases²⁰
 - o Any citizen to question the sufficiency of the factual basis for the declaration of martial law and/or the suspension of the privilege of the writ of Habeas Corpus²¹

(3) *Earliest opportunity*

- General rule: The constitutional question must be raised at the earliest possible opportunity, such that if it is not raised in the pleadings, it cannot be considered at the trial, and if not considered at the trial, it cannot be considered on appeal.
- Exceptions:
 1. Criminal cases: The constitutional question can be raised anytime in the discretion of the court.
 2. Civil cases: The constitutional question can be raised anytime if it is necessary to determination of the case itself.
 3. In every case, the constitutional question may be raised at any stage if it involves the jurisdiction of the court, unless there's estoppel.²²

(4) *Necessity of deciding constitutional question*

- This is a policy of constitutional avoidance, rooted in the doctrine of separation of powers because every law²³ is presumed to be constitutional.
 - o To doubt (the constitutionality) is to sustain.
- The court will not pass upon a constitutional question if the case can be disposed of on some other ground such as the application of a statute or general law.²⁴

¹⁷ Kilosbayan v. Guingona, G.R. No. 133375, May 5, 1994 [Per J. Davide, *En Banc*].

¹⁸ Kilosbayan v. Ermita, G.R. No. 177721, July 3, 2007 [Per J. Azcuna, *En Banc*], allowing a group of citizens to assail the appointment of a person as associate justice of the Supreme Court.

¹⁹ G.R. No. 166501, November 16, 2006 [Per J. Carpio, *En Banc*].

²⁰ 2010 RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 2, § 5.

²¹ PHIL. CONST. art. VII, § 18.

²² The issue of jurisdiction can be raised at any stage of the proceedings, and the court itself can declare that it does not have jurisdiction (*kompetenz-kompetenz*) and is not lost by waiver or estoppel. Nevertheless, a party is estopped from questioning jurisdiction when it does so in an “unjustly belated manner especially when it actively participated during trial.”

²³ As we shall learn later, it's not.

²⁴ Laurel v. Garcia, G.R. No. 92013, July 25, 1990 [Per J. Gutierrez, *En Banc*], nullifying the Roppongi sale based on the Administrative Code.

Levels of judicial scrutiny:

1. Rational basis
2. Intermediate scrutiny
3. Strict scrutiny

These levels of scrutiny are used to **determine the reasonableness** of classification in the court's review of measures from the perspectives of both the equal protection clause and the substantive due process, or the police power.²⁵

Rational basis scrutiny

- The classification must reasonably relate to the legislative purpose.
- Usually applied to economic or social welfare legislation, or to any other case not involving a suspect class.

Intermediate scrutiny

- The law must (1) further an important government interest, (2) be substantially related to that interest, and the justification for the classification must be (3) genuine and must not depend on broad generalization.
- Applied when the classification puts a quasi-suspect class at a disadvantage (e.g. based on gender or illegitimacy).

Strict scrutiny

- Applies when a legislative classification impermissibly interferes with the exercise of a fundamental right or operates to the peculiar class disadvantage of a suspect class.
- The government carries the burden to prove that the classification is (1) necessary to achieve a compelling state interest, and (2) it is the least restrictive means to protect such interest.

Effects of a declaration of unconstitutionality

1. Orthodox view: An unconstitutional act is not a law, it confers no rights, it imposes no duties, it affords no protection, it creates no office, it is in legal contemplation inoperative, as if it had not passed.
2. Modern view: The court does not strike the statute from the statute books; it does not repeal, supersede, revoke, or annul the statute. It simply refuses to recognize it and determines the rights of the parties just as if such statute had no existence.

Doctrine of operative fact

- An exception to the general rule (*see above*).
- Applies as a matter of equity and fair play.
- Nullifies the effect of an unconstitutional law by recognizing that the existence of the act prior to a determination of unconstitutionality is an operative fact and may have consequences which cannot be always ignored.
 - o Also applies to executive actions declared unconstitutional²⁶

Theory of relative constitutionality

- Laid down in *Central Bank Employees Association v. BSP*²⁷
- The constitutionality of a statute cannot, in every instance, be determined by a mere comparison of its provisions with applicable provisions of the Constitution, since the statute may be constitutionally valid as applied to one set of facts and invalid in its application to another.

²⁵ See *White Light Corp. v. City of Manila*, G.R. No. 122846, January 20, 2009 [Per J. Tinga, *En Banc*] & *SPARK v. Quezon City*, G.R. No. 225442, August 8, 2017 [Per J. Perlas-Bernabe, *En Banc*].

²⁶ *Hacienda Luisita v. Presidential Agrarian Reform Council*, G.R. 171101, July 5, 2011 [Per J. Velasco, *En Banc*], holding that "the operative fact doctrine squarely applies to executive acts."

²⁷ G.R. 148208, December 15, 2004 [Per J. Puno, *En Banc*], striking down a proviso in R.A. 7653 exempting employees above SG-19 from the Salary Standardization Law as Congress did not provide such a distinction for other government financial institutions when it amended their charters post-R.A. 7653.

- Hence, Congress cannot reenact a provision that has been previously declared as unconstitutional without any perceived substantial changes in the circumstances.²⁸

Partial unconstitutionality

- Courts hesitate to declare a law totally unconstitutional and, if possible, it will salvage the valid portions thereof to give effect to the legislative will.
- A partial unconstitutionality is valid only if:
 1. The legislature is willing to retain the valid portions even if the rest of the statute is declared illegal;²⁹ *and*
 2. The valid portions can stand independently as a separate statute.

Chapter 4: The fundamental powers of the state

1. Police power – Power of the state to regulate liberty and property for the promotion of the general welfare.
2. Power of eminent domain – Enables the state to forcibly acquire private property, upon payment of just compensation, for some intended public use.
3. Power of taxation – The state can demand from the members of society their proportionate share or contribution in the maintenance of the government.

Similarities:

1. Inherent in a state and does not require an explicit constitutional grant
2. Indispensable to the existence of the state
3. Methods by which the state interferes with private rights
4. All presuppose an equivalent compensation for the private rights interfered with
5. Exercised primarily³⁰ by the Congress

Differences

1. The police power regulates both liberty and property. The powers of eminent domain and taxation affect only property rights.
2. The police power and power of taxation may be exercised only by the government³¹. The power of eminent domain may be exercised by some private entities.
3. The property taken in the exercise of police power is destroyed. While for the powers of eminent domain and taxation, the property taken is intended for a public use or purpose and is, therefore, wholesome.
4. The compensation of the person subjected to police power is the “intangible altruistic feeling that he has contributed to the general welfare.” The compensation involved in the other powers is more concrete, *e.g.* a full and fair equivalent of the property expropriated or protection and public improvements for the taxes paid.

Quiz 1

Discuss the distinctions among the fundamental powers the state in terms of:

1. Their subjects (5%)
2. Who can or may be permitted to exercise them (5%)

Chapter 5: The police power

Definitions:

1. The power of promoting the public welfare by restraining and regulating the use of liberty and property (Ernst Freund).

²⁸ Sameer Overseas Placement Agency Inc. v. Cabiles, G.R. No. 170139, August 5, 2014 [Per J. Leonen, *En Banc*].

²⁹ This may be expressed in a separability clause.

³⁰ Congress can delegate.

³¹ If the generation of revenue is the primary purpose and regulation is *merely incidental*, the imposition is a tax. But if regulation is the primary purpose, the fact that the revenue is incidentally raised does not make the imposition a tax. See *Gerochi v. Department of Energy*, G.R. No. 159796, July 17, 2007 [Per J. Nachura, *En Banc*].

2. The inherent power of the state to regulate or to restrain the use of liberty and property for public welfare.
3. The power to regulate the exercise of rights, including all constitutional rights, by prescribing limitations, to promote the health, morals, peace, education, good order or safety, and general welfare of the people.

Characteristics:

1. Most pervasive
2. Least limitable
3. Most demanding

Some examples of exercise of police power:

1. Impairment of a contract, notwithstanding the nonimpairment clause in the constitution³²
2. Superseding of a treaty³³
3. To minimize certain practices hurtful to public morals³⁴
 - a. But this must not invade property rights³⁵ and individual rights³⁶
4. Taxation, when used in a regulatory purpose³⁷
5. Eminent domain, when used to effect a governmental policy motivated by police power³⁸

Who exercises of police power?

- Lies in the discretion of the legislative department (Congress)
 - o Hence, no Mandamus may lie against the Congress to force it to exercise police power (*i.e.* to enact laws).
 - o If the Congress decides to act, the law may not be questioned based on the policy's wisdom as that is tantamount to a political question.³⁹
- But Congress may, *by law*, delegate⁴⁰ it to:
 - o The president and administrative agencies
 - Also known as quasi-legislative or rule-making power. The delegate's action must conform to the **completeness and sufficient standard tests**.⁴¹
 - Notably, the president, aided by the military, exercises police power to ensure public safety when a state of martial law is declared over a particular area⁴².
 - o Local government units' (LGU) legislative bodies⁴³

Tests of police power:

1. The **interests of the public** generally, as distinguished from those of a particular class, require the exercise of the police power; and

³² *Stone v. Mississippi*, 101 U.S. 814, holding that "the contracts protected in the constitution are property rights, not governmental rights." This meant that the obligations of contracts may be impaired by police power.

³³ *Compare Pangilinan v. Cayetano*, G.R. No. 238875, March 16, 2021 [Per J. Leonen, *En Banc*], where the court held that "statutes enjoy preeminence over international agreements," and "a treaty cannot amend a statute." The precedential effect of this case is doubtful.

³⁴ *Ermita-Malate Hotel v. City Mayor of Manila*, G.R. L-24693, July 31, 1967 [Per J. Fernando, *En Banc*].

³⁵ *City of Manila v. Laguio*, G.R. 118127, April 12, 2005 [Per J. Tinga, *En Banc*].

³⁶ *White Light Corp. v. City of Manila*, G.R. No. 122846, January 20, 2009 [Per J. Tinga, *En Banc*].

³⁷ *Lutz v. Araneta*, G.R. No. L-7859, December 22, 1955 [Per J. Reyes, *En Banc*]. See also *Osmeña v. Orbos*, G.R. No. 99886, March 31, 1993 [Per C.J. Narvasa, *En Banc*], *Gaston v. Republic Planters Bank*, G.R. No. 77194, March 15, 1988 [Per J. Melencio-Herrera, *En Banc*] & *Tio v. Videogram Regulatory Board*, G.R. No. 75697, June 18, 1987 [Per J. Melencio-Herrera, *En Banc*].

³⁸ *Association of Small Landowners v. Secretary of Agrarian Reform*, G.R. No. 78742, July 14, 1989 [Per J. Cruz, *En Banc*], holding that "to the extent that the [comprehensive agrarian reform program] merely prescribe retention limits for landowners, there is an exercise of the police power for the regulation of private property."

³⁹ Which are off-limits to the judiciary.

⁴⁰ The exceptions to the doctrine of nondelegation of legislative power.

⁴¹ *Eastern Shipping Lines Inc. v. Philippine Overseas Employment Administration*, G.R. No. 76633, October 18, 1988 [Per J. Cruz, First Division].

⁴² *Lagman v. Medialdea*, G.R. No. 231658, July 4, 2017 [Per J. Del Castillo, *En Banc*], declaring the sufficiency of the factual basis over the president's martial law declaration in Mindanao in the aftermath of the Marawi Siege.

⁴³ An Act Providing for a Local Government Code of 1991 [LOCAL GOV'T CODE], Republic Act No. 7160, § 16 (1991).

2. The means employed are **reasonably necessary** for the accomplishment of the purpose and **not unduly oppressive** upon individuals.

In short, a valid exercise of police power must have a lawful subject and lawful means.

(1) *Lawful subject*

- The activity or property sought to be regulated **affects the public welfare**.
- As long as the object is the public welfare and the subject of regulation may be properly related thereto, there is compliance with the first test (which merely requires the primacy of general welfare over the interests of the few).
- Police power cannot be validly asserted over entirely private matters in which the public interest is not at all involved.
- Some examples of lawful subjects for regulation:
 1. Prohibition of billboards offensive to sight or distracting to motorists⁴⁴
 2. Phasing out of taxicabs more than six years old⁴⁵
 3. Prohibiting barber shops from rendering massage in a separate room⁴⁶
 4. Prohibiting heavy vehicles from using public streets on weekends and holidays⁴⁷
 5. Prohibiting the issuance of worthless checks⁴⁸
 6. Disqualifying any person who failed the NMAT thrice from taking it again⁴⁹
 7. A city ordinance opening private roads in a private subdivision⁵⁰
 8. Requiring physicians to indicate the generic name in their prescription⁵¹
 9. Requiring television and radio stations to give free airtime for broadcasting election information (COMELEC hour)⁵²
 10. The power to establish zones for industrial, commercial, and residential uses⁵³
 11. A 20-percent discount for senior citizens⁵⁴
 12. A 20-percent discount for persons with disability⁵⁵
 13. Designation and proscription of suspected terrorists⁵⁶

(2) *Lawful means/methods*

- The restriction must be **reasonably related** to the purpose sought to be accomplished and cannot be considered duly oppressive upon him.
- Some examples of lawful means/methods:
 1. Requiring reasonable working hours or minimum wages⁵⁷
 2. Prohibition of certain nonmotorized vehicles (*e.g.* bicycles and pedicabs) from using the tollway⁵⁸

⁴⁴ Churchill v. Rafferty, G.R. No. 10572, December 21, 1915 [Per J. Trent, *En Banc*].

⁴⁵ Taxicab Operators of Metro Manila v. Board of Transportation, G.R. No. L-59231, September 30, 1982 [Per J. Melencio-Herrera, *En Banc*].

⁴⁶ Velasco v. Villegas, G.R. No. 24153, February 14, 1983 [Per C.J. Fernando, *En Banc*].

⁴⁷ Bautista v. Junio, G.R. No. L-50908, January 31, 1984 [Per J. Fernando, *En Banc*].

⁴⁸ Lozano v. Martinez, G.R. No. L-63419, December 18, 1986 [Per J. Yap, *En Banc*], upholding the constitutionality of the Anti-Bouncing Checks Law (BP 22).

⁴⁹ DECS v. San Diego, G.R. 89572, December 21, 1989 [Per J. Cruz, *En Banc*].

⁵⁰ Sangalang v. IAC, G.R. 71169, December 22, 1988 [Per J. Sarmiento, *En Banc*].

⁵¹ Del Rosario v. Bengzon, G.R. No. 88265, December 21, 1989 [Per J. Griño-Aquino, *En Banc*].

⁵² TELEBAP v. COMELEC, G.R. No. 132922, April 21, 1998 [Per J. Mendoza, *En Banc*], holding that legislative franchises "may reasonably be burdened with the performance by the grantee of some form of public service."

⁵³ Social Justice Society v. Atienza, G.R. No. 156052, February 13, 2008 [Per J. Corona, First Division].

⁵⁴ Manila Memorial Park v. DSWD Secretary, G.R. No. 175356, December 3, 2013 [Per J. Del Castillo, *En Banc*], citing Carlos Superdrug Corp. v. DSWD, G.R. No. 166494, June 29, 2007 [Per J. Azcuna, *En Banc*], sustaining the validity of the discount because the constitution affords senior citizens a "preferential concern."

⁵⁵ Drugstores Association of the Philippines v. National Council on Disability Affairs, G.R. No. 194561, September 14, 2016 [Per J. Peralta, Third Division], holding that "the concept of public use is no longer confined to the traditional notion of use by the public, but held synonymous with public interest, public benefit, public welfare, and public convenience."

⁵⁶ Calleja v. Executive Secretary, G.R. No. 252578, December 7, 2021 [Per J. Carandang, *En Banc*].

⁵⁷ Ramos v. Poblete, G.R. No. 47829, October 8, 1941 [Per J. Ozaeta, *En Banc*].

⁵⁸ Mirasol v. DPWH, G.R. 158793, June 8, 2006 [Per J. Carpio, *En Banc*].

3. Prohibiting theaters from overbooking tickets for safety inside the movie house⁵⁹
4. Requiring at least 6 percent of the total areas of private cemeteries to be set aside for charity burial⁶⁰
- Some examples of laws failing the reasonable means test:
 1. Prohibiting the transport of carabaos across provincial lines to avoid indiscriminate slaughter⁶¹
 2. Requiring malls to offer free parking⁶²
 3. Prohibiting hotels/motels from offering washroom rates and renting out rooms more than twice a day⁶³
 4. Prohibition of the operation of sauna parlors, massage parlors, karaoke bars, beerhouses, etc., at certain parts of the city⁶⁴
 5. Allowing the government to gather computer data “upon due cause”⁶⁵
 6. Requiring plantation owners to shift to a different mode of applying pesticides within a three-month period⁶⁶

Overbreadth doctrine

- Applied when a statute needlessly restrains even constitutionally guaranteed rights.
- A proper governmental purpose, constitutionally subject to state regulation, may not be achieved by means that unnecessarily sweep its subject broadly, thereby invading the area of protected freedoms.

Void-for-vagueness doctrine

- Applicable when a penal statute encroaches upon the freedom of speech
- A law suffers from the defect of vagueness when it lacks comprehensible standards that men of common intelligence must necessarily guess at its meaning and differ as to its application.
- It violates the constitution in two respects:
 - o Due process.
 - o Gives law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the government muscle.

Modes of constitutional challenges:

1. Facial challenge – May be mounted by a petitioner, even if he claims no violation of his own rights, when the law involves free speech on the grounds of the overbreadth or vagueness of the law.⁶⁷
2. As-applied challenge – The petitioner who claims a violation *of his own* constitutional right can raise any constitutional ground. He is, however, prohibited from raising violations claimed by a third-party.⁶⁸

Chapter 6: Eminent domain

Definitions:

1. Upon payment of just compensation, the government can forcibly acquire the needed property to devote it to the intended public use.
2. The highest and most exact idea of property remaining in the government that may be acquired for some public purpose through a method in the nature of a compulsory sale to the state.

⁵⁹ People v. Chan, G.R. 45435, June 17, 1938 [Per J. Concepcion, *En Banc*].

⁶⁰ City Government of Quezon City v. ERICTA, G.R. L-34915, June 24, 1983 [Per J. Gutierrez, First Division].

⁶¹ Ynot v. IAC, G.R. No. 74457, Mar 20, 1987 [Per J. Cruz, *En Banc*].

⁶² Office of the Solicitor General v. Ayala Land Inc., G.R. No. 177056, September 18, 2009 [Per J. Chico-Nazario, Third Division].

⁶³ *Supra* note 36.

⁶⁴ *Supra* note 35.

⁶⁵ Disini v. Secretary of Justice, G.R. No. 203335, February 11, 2014 [Per J. Abad, *En Banc*].

⁶⁶ Mosqueda v. Pilipino Banana Growers, G.R. No. 189185, August 16, 2016 [Per J. Bersamin, *En Banc*].

⁶⁷ The rationale for this exception is to counter the “chilling effect” on protected speech that comes from statutes violating free speech.

⁶⁸ This is also a prohibition from mounting a third-party standing.

3. It is the power of a sovereign state to appropriate private property within its territorial sovereignty to promote public welfare.

Scope

1. While the power is expressly mentioned in the constitution⁶⁹, this provision is not a grant but a limitation of the power as its negative and restrictive language clearly suggests.
 - a. Hence, this should be construed strictly against the expropriator (state) and liberally in favor of the property owner.
2. It is inalienable and no legislative act or agreement can serve to abrogate the power when public necessity and convenience require its exercise.
3. There are two mandatory requirements before the government may exercise such right:
 - a. That it is for a **particular public purpose**; and
 - b. That **just compensation be paid** to the property owner.

Who may exercise the power of expropriation?

1. The Congress
2. The president
3. The various local legislative bodies
4. Certain public corporations⁷⁰
5. Quasi-public corporations⁷¹

Essential requisites for the exercise of eminent domain by a local government unit:

1. Ordinance duly enacted by the local legislative body⁷²
2. Public use, purpose, or welfare, or for the benefit of the poor and the landless
3. Just compensation
4. Preceded by a valid and definite offer to the owner who rejects the same

Before an LGU may enter into the possession of the property sought to be expropriated, it must:

1. File a complaint for expropriation sufficient in form and substance in the proper court; and
2. Deposit with the said court at least 15 percent of the property's fair market value.

Two stages of expropriation proceedings:

1. Determination of the validity of the expropriation
2. Determination of just compensation

Requirements when expropriation is done by an agent of the state:

1. A valid delegation to a public utility
2. An identified public use, purpose or welfare
3. Previous tender of a valid and definite offer, but which offer is not accepted
4. Payment of just compensation⁷³

'Destruction from necessity'

- Is not an exercise of the power of eminent domain.
- The right of necessity arises under the laws of society or society itself.
- Destruction from necessity cannot require the conversion of the property to public use, nor is the payment of just compensation required.

⁶⁹ PHIL. CONST. art. III, § 9. It provides that "Private property shall not be taken for public use without just compensation." See also PHIL. CONST. art. XII, § 18, which provides: "The State may, in the interest of national welfare or defense, establish and operate vital industries and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government."

⁷⁰ E.g. the National Housing Authority and water districts.

⁷¹ E.g. the Philippine National Railways, PLDT, and MERALCO.

⁷² It cannot be a mere resolution. See *Yusay v. CA*, G.R. No. 156684, April 6, 2011 [Per J. Bersamin, Third Division].

⁷³ *MORE Electric and Power Corp. v. Panay Electric Company Inc.*, G.R. No. 248061, September 15, 2020 [Per J. Reyes, *En Banc*], citing *City of Manila v. Prieto*, G.R. 221366, July 8, 2019 [Per J. Reyes, Second Division].

Necessity of exercise

- General rule: Questions of necessity or wisdom are essentially political when decided by the Congress and are usually not subject to judicial review.
- However, when the question of necessity is decided by a delegate (i.e. not Congress), the courts can step in.
 - o In this case, determination of whether there is a genuine necessity for the exercise is a justiciable question⁷⁴.
- Judicial review of the exercise of the power of eminent domain is limited to the following areas of concern:
 1. Adequacy of the compensation
 2. Necessity of the taking
 3. Public use character of the purpose of the taking.

Private property

- Anything that can come under the dominion of man is subject to expropriation.
 - o This includes real and personal, tangible and intangible property.
 - Hence, the government can force interconnection between and among telecommunications company, upon payment of just compensation⁷⁵.
 - o Exceptions: money⁷⁶ and choses in action.
- Property already devoted to public use is still subject to expropriation, provided this is done by Congress or under a specific grant of authority to the delegate⁷⁷.
 - o This is because the power of eminent domain is not exhausted by use⁷⁸.
- Absent expropriation proceedings and without any evidence that a property has been sold/donated to the government, the property is considered private.
- It is also deemed eminent domain when there is a **practical destruction or material impairment** of the property's value⁷⁹.
- It is also eminent domain when the burden is too cumbersome as to indefinitely restrict the owner from using the property.
 - o *Compare with easements*. When the restriction is neither perpetual nor indefinite, a mere easement fee will suffice.
- Hence, the following are not exercise of eminent domain:
 1. The establishment of a buffer zone to minimize the effects of aerial spraying within and near plantations⁸⁰
 2. Discounts for senior citizens/PWD, thereby depriving business their right to profit⁸¹

Taking

- A physical dispossession of the owner and is thus deprived of all beneficial use and enjoyment of his property.
- Taking occurs when the landowner is deprived of the use and benefit of his property, such as when the title is transferred to the republic.
- Occurs when there is a practical destruction or material impairment of the value of the property, or when the owner is deprived of the ordinary use thereof.

⁷⁴ A court's determination of just compensation may be set aside if tainted with grave abuse of discretion (a Rule 65 petition). See *Allied Bank v. Land Bank*, G.R. No. 175422 March 13, 2009 [Per J. Chico-Nazario, Third Division].

⁷⁵ See *Republic v. PLDT*, G.R. No. L-18841, January 27, 1969 [Per J. Reyes, *En Banc*] & *PLDT v. NTC*, G.R. No. L-88404, October 18, 1990 [Per J. Melencio-Herrera, *En Banc*].

⁷⁶ It would be absurd to expropriate money in exchange of ... money.

⁷⁷ *MORE Electric and Power Corp. v. Panay Electric Company Inc.*, G.R. No. 248061, March 9, 2021 [Per J. Carandang, *En Banc*], denying the motion for reconsideration.

⁷⁸ *Supra* note 73.

⁷⁹ *Bartolata v. Republic*, G.R. No. 22334, June 7, 2017 [Per J. Velasco, Third Division].

⁸⁰ *Supra* note 66.

⁸¹ *Southern Luzon Drug Corp. v. DSWD*, G.R. 199669, April 25, 2017 [Per J. Reyes, *En Banc*], holding that the right to profit is not a vested right that is eligible for "taking."

- Compensable taking includes destruction, restriction, diminution, or interruption of the rights of ownership or of the common and necessary use and enjoyment of the property in a lawful manner, lessening or destroying its value.⁸²
- **Requisites of taking** in eminent domain:
 1. The expropriator must enter a private property
 2. The entry must be for more than a momentary period
 3. The entry must be under warrant or color of legal authority
 4. The property must be devoted to public use or otherwise informally appropriated or injuriously affected⁸³
- Examples of taking:
 1. A farmland becoming permanently inundated due to the construction of a dam nearby, preventing the owner from planting⁸⁴
 2. Government plans flying so low as to practically touching the top of the trees thereon⁸⁵
 3. Imposition of an easement over a three-meter strip of a property⁸⁶
 4. Right-of-way easements resulting in the restriction/limitation on property rights over the land traversed by transmission lines⁸⁷
 5. When an exhaust fan installed in a tunnel to clear of it smoke is directed toward a house/property⁸⁸
 6. Construction of a tunnel underneath the ground⁸⁹
 7. The remaining area of a lot that wasn't used in the construction of a road⁹⁰

Public use

- Any use directly available to the general public as a matter of right and not merely of forbearance or accommodation.
 - o It's also public use though the expropriator is not the state but the purpose is devoted to public services administered by private entities.
- Public use is now synonymous with:
 - o Public interest
 - o Public benefit
 - o Public convenience
- In other words, public use is whatever is beneficially employed for the general welfare.
- It also includes instances which, while not directly available to the public, redound to their indirect advantage or benefit⁹¹
- Nevertheless, when the taking of private property is no longer for a public purpose, the expropriation complaint should be dismissed by the trial court,⁹² unless:
 - o The trial court's decision has already attained finality; or
 - o The expropriation case already prejudiced the owner.

⁸² NAPOCOR v. Heirs of Sangkay, G.R. No. 165828, August 24, 2011 [Per J. Bersamin, First Division].

⁸³ Republic v. Vda de. Castellvi, G.R. No. L-20620, August 15, 1974 [Per J. Zaldivar, *En Banc*].

⁸⁴ US v. Lynah, 188 U.S. 455. In this case, the owner remains in possession of the property.

⁸⁵ US v. Causby, 328 U.S. 256. Nevertheless, the court noted that that property does not extend "ad coelum" (indefinitely upward) but includes the "lower altitude airspace."

⁸⁶ Ayala de Roxas v. City of Manila, G.R. No. 3144, November 19, 1907 [Per C.J. Arellano, *En Banc*].

⁸⁷ NAPOCOR v. Aguirre-Paderanga, G.R. No. 155065, July 28, 2005 [Per J. Carpio-Morales, Third Division].

⁸⁸ Richards v. Washington Terminal, 233 U.S. 546, noting that the individual house/property had a "special injury" over and above sustained by the rest of the community.

⁸⁹ NAPOCOR v. Ibrahim, G.R. No. 168732 June 29, 2007 [Per J. Azcuna, First Division].

⁹⁰ Republic v. Sps. Regulto, G.R. No. 202051, April 18, 2016 [Per J. Peralta, Third Division], holding that the project materially impaired and affected the integrity of the entire—not just the expropriated part—property.

⁹¹ See Association of Small Landowners v. Secretary of Agrarian Reform, G.R. No. 78742, July 14, 1989 [Per J. Cruz, *En Banc*] (land reform), Province of Camarines Sur v. CA, G.R. No. 103125, May 17, 1993 [Per J. Quiason, First Division] (establishment of a development center), Reyes v. NHA, G.R. No. 147511, January 20, 2003 [Per J. Puno, Third Division] (slum clearance) & Manapat v. CA, G.R. No. 110478, October 15, 2017 [Per J. Nachura, Third Division] (socialized housing program).

⁹² See Republic v. Heirs of Borbon, G.R. No. 165354, January 15, 2015 [Per J. Bersamin, First Division], where the retirement of the transmission lines necessarily stripped the expropriation proceedings of the element of public use.

- Actual or compensatory damages may be awarded, in lieu of the just compensation.

Just compensation

- The full and fair equivalent of the property taken from the private owner by the expropriator.
 - “Just” – The amount to be tendered for the property is real, substantial, full, and ample.
 - “Compensation” – A full indemnity or remuneration for the loss or damage sustained by the owner of property taken or injured for public use.
- The property’s fair market value (FMV) at the time of the filing of the complaint, or that sum of money which a person desirous but not compelled to buy, and an owner willing but not compelled to sell, would agree on as price to be given and received therefor.
 - If the FMV is difficult to ascertain, the court may use other just and equitable market methods of valuation.⁹³
- Who may be compensated?
 - General rule: All who have lawful interest in the property to be condemned, including a mortgagee, lessee,⁹⁴ and a vendee in possession.
- How is just compensation ascertained?
 - The court should determine first the actual or basic value of the property.
 - Zonal valuation is simply one of the indices of the FMV of real estate.
 - The courts enjoy sufficient judicial discretion to determine the classification of the lands to be expropriated.
- What is the role of the courts in determining just compensation?
 - The determination of just compensation is clearly a judicial function.
 - Any determination made by administrative agencies would be at best preliminary and not conclusive.
 - Executive issuances and legislative enactments fixing or providing for the method of computing just compensation are not binding on courts and are mere guidelines.
- What are **consequential damages**?
 - Injuries directly caused on the residue of the private property taken by reason of the expropriation.
 - *Compare*: Consequential benefits – As a result of the expropriation, the property became placed in a better location.
 - It is not paid if the entire area is being expropriated.
 - It is not paid to reimburse the owner of the capital gains tax and other taxes necessary for the transfer of the subject property, but it may be proper⁹⁵ to consider such fees and taxes to preserve the compensation awarded to the owner.
- When property is taken, the full compensation must be paid immediately. Otherwise, the state becomes liable for the interest on the unpaid compensation.
 - The interest is paid from the time of taking until the just compensation is fully paid to him. **Interest must be demanded, otherwise, it is deemed waived.**
 - The award of interest is imposed in the nature of damages, which in effect makes the obligation on the part of the government a forbearance.
 - Hence, the just **compensation formula** (simplified) = **FMV + Consequential Damages – Consequential Benefits + Interests** (in case of delay)⁹⁶
- General rule: Just compensation must be paid in legal tender.

⁹³ Such as replacement cost, the kinds and quantities of materials/equipment used, the location, configuration and other physical features of the property, prevailing construction prices, among others.

⁹⁴ *Contra* Land Bank v. AMS Farming Corp., G.R. No. 174971, October 15, 2009 [Per J. Chico-Nazario, Third Division], where the court held that lessees are not entitled to just compensation, in the context of the comprehensive agrarian reform program, due to a contractual obligation.

⁹⁵ If the court deems it just and equitable. See Republic v. Vda. De Ramos, G.R. No. 211576, February 19, 2020 [Per J. Caguioa, First Division].

⁹⁶ Sy v. Local Government of Quezon City, G.R. No. 202690, June 5, 2013 [Per J. Perlas-Bernabe, Second Division].

- Exception: Just compensation for land reform follows the scheme in § 18 of the Comprehensive Agrarian Reform Law.⁹⁷
- When is the just compensation reckoned?
 - As of the time of taking, which *usually* coincides with the commencement of the expropriation proceedings.
 - Where the filing of the complaint precedes entry to the property, the just compensation is reckoned upon filing of the complaint.
 - Value is **not** reckoned at the time of the judgment!⁹⁸
- **Damages**, when the owner is entitled:
 - When the government has long occupied the property without the benefit of expropriation
 - When the aggrieved party has suffered some pecuniary loss, which proof cannot be adduced
- **Inverse condemnation** – The action to recover from the state or its delegate, even though no formal exercise of the power of eminent domain has been attempted by the expropriator⁹⁹.
 - Neither laches nor prescription may bar a claim for just compensation for property taken for public use.
 - But if the owner agrees voluntarily to the taking, he waives his right to the institution of a formal expropriation proceeding covering such property.
 - Silence is consent to taking.¹⁰⁰
 - Owner's only remedy is an action for payment of just compensation and **not** for ejectment or recovery of possession.¹⁰¹
- In the context of agrarian reform
 - The agrarian reform process is incomplete without payment of just compensation.
 - The state may not be compelled to acquire the excluded portion of a property, beyond the coverage of CARP, and pay just compensation for the ill-suited land for agriculture.
 - The prescriptive period to file a complaint the judicial determination of just compensation under the CARP is 10 years.
 - Title to the property shall not be transferred until after actual payment of just compensation is made to the owner.

Chapter 7: Taxation

Taxes – The enforced proportional contributions from persons and property, levied by the state by virtue of its sovereignty, for the support of the government and for all public needs.

- Done to apportion the costs of government among the people according to their ability to pay and on the basis of as scientific a classification as possible.

Nature of taxation

- It is the lifeblood of the government, and it should be collected promptly without hindrance or delay.
- The power of taxation is inherent in the state.
- It is an obligation not based on a contract.
- Paying taxes is a duty imposed upon an individual by the mere fact of his membership in the body politic and his enjoyment of the benefits available therefrom.
- Nonpayment of taxes may be the subject of criminal prosecution and punishment, except only in cases of poll taxes.¹⁰²
- The government isn't also barred by estoppel from collecting taxes.

⁹⁷ The payment includes cash payment, shares in stock of GOCCs, tax credits, Land Bank bonds, and a combination thereof. In essence, the law does not provide for a full cash payment upon taking.

⁹⁸ *Gabatin v. Land Bank*, G.R. No. 148223, November 25, 2004 [Per J. Chico-Nazario, Second Division].

⁹⁹ *Supra* note 82.

¹⁰⁰ *Ansaldo v. Tantuico Jr.*, G.R. No. L-50147, August 3, 1990 [Per J. Narvasa, First Division].

¹⁰¹ A case filed by a landowner for recovery of possession or ejectment against the expropriator will not prosper. See *NAPOCOR v. Bermuda Development Corp.*, G.R. No. 214782, April 3, 2019 [Per J. Caguioa, Second Division].

¹⁰² PHIL. CONST. art. III, § 20.

Taxes vs. licenses

- Taxes are levied to raise revenues, while licenses are imposed for regulatory purposes only (usually in the exercise of police power).
- If revenue generation is the primary purpose and regulation is *merely incidental*, the imposition is a tax, *e.g.*,
 - o Motor vehicle registration fee¹⁰³
- Conversely, if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the exaction a tax,¹⁰⁴ *e.g.*,
 - o Building permit fee¹⁰⁵
 - o Socialized housing tax and garbage fee¹⁰⁶
 - o Common user service area fee¹⁰⁷
- As a test to determine if an exaction is a fee or a tax, one must **look into the purpose of its collection.**
 - o If the exaction is made to raise revenue for the government to discharge its principal functions, the exaction is a **tax**.
 - o If the exaction is primarily regulatory, it is a **fee**, even if it incidentally raises revenue, as long as the revenue generated does not exceed the cost of regulation.
 - If the revenue exceeds the regulatory costs, it is a **tax**.¹⁰⁸

Scope of the power

- It is pervasive. Hence, the following are subject to taxes:
 - o All income earned in the taxing state, regardless of nationality
 - o All immovable and tangible personal properties in the territory
 - o Tangible personal property owned by persons domiciled here
 - o Shares of stock issued by a foreign corporation, but “in situs” here¹⁰⁹
 - o Proceeds from an insurance policy issued abroad¹¹⁰
- It is unlimited in its range.
- Taxation cannot be allowed to confiscate or destroy.¹¹¹
 - o Legitimate enterprises enjoy the constitutional protection not to be taxed out of existence.

Exercise

- The power of taxation is primarily vested in the Congress.
- It may also be exercised by local legislative bodies, pursuant to a direct authority under the constitution.¹¹²
 - o There must be a statutory grant for an LGU to impose lawfully a tax, that unit not having the inherent power of taxation,¹¹³ except when the exercise is for the regulatory power of the local government.¹¹⁴

¹⁰³ Philippine Airlines Inc. v. Edu, G.R. No. L-41383, August 15, 1988 [Per J. Gutierrez, *En Banc*].

¹⁰⁴ Lim Gaw Jr. v. Commissioner of Internal Revenue, G.R. No. 222837, July 23, 2018 [Per J. Tijam, First Division].

¹⁰⁵ Angeles University Foundation v. City of Angeles, G.R. No. 189999, June 27, 2012 [Per J. Villarama, First Division].

¹⁰⁶ Ferrer v. Bautista, G.R. 210551, June 30, 2015 [Per J. Peralta, *En Banc*].

¹⁰⁷ Subic Bay Metropolitan Authority v. Subic Bay Marine Exploratorium Inc., G.R. No. 237591, November 10, 2021 [Per J. Gaerlan, Second Division].

¹⁰⁸ BCDA v. City Government of Baguio, G.R. No. 192694, February 22, 2023 [Per J. Leonen, Second Division].

¹⁰⁹ Wells Fargo Bank v. Collector of Internal Revenue, G.R. No. 46720, June 28, 1940 [Per J. Moran, *En Banc*].

¹¹⁰ Manila Electric Co. v. Yatco, G.R. No. 45690, November 1, 1939 [Per J. Moran, *En Banc*].

¹¹¹ *Panhandle Oil Co. v. Mississippi ex Rel. Knox*, 277 U.S. 218, 223 (1928) (Holmes, J., dissenting) “The power to tax is not the power to destroy while this Court sits.”

¹¹² PHIL. CONST. art. X, § 5. The provision reads: “Each local government unit shall have the power to create its own sources of revenue and to levy taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.” See also LOCAL GOV’T CODE § 18 (power to generate and apply resources).

¹¹³ *Alta Vista Golf and Country Club v. City of Cebu*, G.R. No. 180235, January 20, 2016 [Per Leonardo-De Castro, First Division].

¹¹⁴ *Progressive Development Corp. v. Quezon City*, G.R. No. L-36081, April 24, 1989 [Per J. Feliciano, Third Division].

- Congress has the discretion to:
 - o Whether or not to tax in the first place
 - o Whom to tax
 - o What to tax
 - o For what purpose is the tax
- Congress's power of taxation may be reversed if its enactments violate the due process and equal protection clauses,¹¹⁵ or the constitutional restrictions.¹¹⁶

Due process

- Taxes will not be allowed if they are confiscatory, except when they are intended precisely for destruction as an instrument of the police power.
- Due process does not require notice and hearing before a law prescribing a tax be enacted.
- But where the tax to be collected is *ad valorem* in nature, the taxpayer is entitled to be notified of the assessment proceedings and to be heard on the correct valuation to be given the property.
- No presumption of regularity exists in any administrative action which results in depriving a taxpayer of his property.

Equal protection

- This flows from the constitutional command that "the rule of taxation shall be uniform and equitable."¹¹⁷
 - o **Uniformity** – The persons or things belonging to the same class shall be taxed at the same rate.
 - o **Equality** – The tax shall be strictly proportional to the relative value of the property.
- Uniformity and equality require a valid classification in the selection of the objects of taxation.

(1) Uniformity (a.k.a. the equal protection clause)

- Uniformity does not forbid classification, as long as:¹¹⁸
 1. The standards that are used therefor are **substantial** and not arbitrary
 2. The categorization is **germane** to achieve the legislative purpose
 3. The law applies, *ceteris paribus*, to both **present and future** conditions
 4. The classification **applies equally** well to all those belonging to the same class.
- Inequities which result from singling out of one particular class for taxation or exemption infringe no constitutional limitation.¹¹⁹

(2) Equitable

- It connotes that taxes should be apportioned among the people **according to their capacity to pay**.
- *Tolentino v. Sec. of Finance*:¹²⁰ The mandate to Congress is not to prescribe, but **to evolve** a progressive tax system. It does not prohibit the imposition of indirect taxes which are regressive.
 - o The provision is a moral incentive to legislation, and not as a judicially enforceable right.

Double taxation

- There is double taxation when additional taxes are laid—
 1. On the same subject
 2. By the same taxing jurisdiction (i.e. LGU or national government)
 3. During the same taxing period
 4. For the same purpose

¹¹⁵ PHIL. CONST. art. III, § 1.

¹¹⁶ See PHIL. CONST. art. VI, § 28.

¹¹⁷ PHIL. CONST. art. VI, § 28.

¹¹⁸ See *Collector of Customs v. Hypermix Feeds Corporation*, G.R. No. 179579, February 1, 2012 [Per J. Sereno, Second Division], where the court struck down a tariff classification based on the kind and quality of wheat.

¹¹⁹ *Supra* note 106.

¹²⁰ G.R. No. 115455, October 30, 1995 [Per J. Mendoza, *En Banc*], finding the VAT hike under RA 7716 not unconstitutional.

- It is not *per se* unconstitutional.
- Double taxation will not be allowed if it results in the violation of the equal protection clause.

Public purpose

- Revenues derived from taxes cannot be used for purely private purposes or for the exclusive benefit of private reasons.
- “Public purpose” is given broad interpretation to include even indirect public advantage or benefit, so long as some link to the public welfare is established.
- The public purpose of the government expenditure is not affected by any incidental benefit to a private person or entity¹²¹.

Tax exemptions

- Tax exemptions are construed strongly against the claimant.
 - o There is no vested right in a tax exemption.
- Tax exemptions and refunds are exceptions and are highly disfavored.
 - o Tax amnesty – A general pardon or the intentional overlooking by the state of its authority to impose penalties on persons otherwise guilty of a violation of a tax law.
 - An absolute waiver by the government of its right to collect what is due it and to give tax evaders a clean slate.
- Tax exemptions are either **constitutional or statutory**.

(1) Constitutional tax exemptions

- Article VI, Section 28(3), pertaining to charitable institutions, churches, and parsonages or convents, mosques, nonprofit cemeteries, and all **lands, buildings, and improvements actually, directly, and exclusively** used for **religious, charitable, or educational** purposes.
 - o There must be a direct and immediate and actual application of the property itself to the purposes for which the charitable institution is organized.
 - o Only applies to real property taxation. But, nevertheless, it must still be used actually, directly and exclusively used for the purposes set forth above.¹²²
- Article XIV, Section 4(3), pertaining to all the **revenue and assets** of nonstock, nonprofit educational institutions used **actually, directly, and exclusively** for **educational** purposes.
- In *Commissioner of Internal Revenue v. De La Salle University*,¹²³ the court distinguished these two constitutional tax exemptions:
 - o When a **non-stock, non-profit educational institution** proves that it uses its revenues actually, directly, and exclusively for educational purposes, it shall be exempted from income tax, VAT, and local business tax under Article XIV, Section 4(3).
 - o When it also shows that it uses its assets in the form of real property for educational purposes, it shall be exempted from real property tax under Article VI, Section 28(3).

(2) Statutory tax exemptions

- These are up to Congress’s discretion, although such a law granting tax exemption must be with the concurrence of a majority of all the members of the Congress.¹²⁴
- If the exemption is granted gratuitously (*e.g.* in pursuance of an economic policy), Congress may revoke it at will.
- If the exemption is granted for valuable consideration, it is deemed to partake of the nature of a contract and the obligation thereof is protected against impairment.¹²⁵

¹²¹ *Bawasanta v. People*, G.R. No. 219300, November 17, 2021 [Per J. Gaerlan, Second Division].

¹²² See *Lladoc v. Commissioner of Internal Revenue*, G.R. No. L-19201, June 16, 1965 [Per J. Paredes, *En Banc*] (“The exemption under [1935 PHIL. CONST. art. VI, § 22(3)] is only from the payment of taxes assessed on such properties enumerated, as property taxes, as contra-distinguished from excise taxes.”) & *Lung Center of the Philippines v. Quezon City*, G.R. No. 144104, June 29, 2004 [Per J. Calleja, *En Banc*] (“Those portions of its real property that are leased to private entities are not exempt from real property taxes as these are not actually, directly and exclusively used for charitable purposes.”).

¹²³ G.R. 196596, November 9, 2016 [Per J. Brion, Second Division].

¹²⁴ PHIL. CONST. art. VI, § 28(4).

¹²⁵ See PHIL. CONST. art. III, § 10.