



# Due Process

K. Yngwie Enriquez



# Due Process

- The minimum rights to notice and hearing were first observed by the Eternal Judge in the Garden of Eden.
- The law should hear before it condemns – *“Strike, but hear me first.”*
- Dual aspect: **Substantive** and **Procedural**
- Article III, Section 1, 1987 Constitution – *No person shall be **deprived of life, liberty, and property** without due process of law.*
- Due process is a guaranty against any arbitrariness on the part **of the government.**
- Any government act that militates against the ordinary norms of justice or fair play is considered an infraction of the great guaranty of due process.

# Person

- Person includes all natural and juridical persons.
- Natural persons include a citizen and an alien.
- Artificial persons are covered but only insofar as their property is concerned. The life and liberty of the artificial person are derived from and subject to the control of the government (e.g. Revised Corporation Code, Law on Partnerships)
- Person also includes the State.

# Deprivation

- Deprive means to take away forcibly; to prevent from processing, enjoying, or using something.
- Note that deprivation *per se* is not unconstitutional. What is prohibited is deprivation of life, liberty, and property **without due process of law**.
- No unlawful deprivation of life when a person is required to render service in defense of the State. (Article II, Section 4, 1987 Constitution)
- No unlawful deprivation of liberty where a criminal is punished for a crime with imprisonment, or where individuals are first required to pass government exams before they can practice their professions.
- No unlawful deprivation of property where it is offensive to public welfare, or where it is expropriated by the government upon payment of just compensation.

# Life

- Life connotes the integrity of the physical person.
- Not permissible for the government to deprive the individual of any part of his body even if it be as punishment for a crime.
- Life commences upon conception, or fertilization. Hence, the obligation upon the State to equally protect the life of the mother and the life of the unborn from conception, and to prevent the Legislature from enacting a measure legalizing abortion. (*Imbong v. Ochoa*, G.R. No. 204819, April 8, 2019)

# Liberty

- Liberty is the freedom to do right and never wrong.
- Liberty, as guaranteed under the due process clause, is not unbridled license, but freedom regulated by law.
- A person is free to act but he may exercise his rights only in such manner as not to injure the rights of others, consistent with the legal principle *salus populi est suprema lex* – the welfare of the people is the supreme law.
- To illustrate, one's freedom of expression cannot be used to unfairly destroy another's reputation.
- A person is free to do anything that does not offend the public welfare, subject to the reasonable restrictions of the law – he may marry for love or for money, pursue a profession, establish a business, profess any religion or embrace atheism.

# Property

- Property is anything that can come under the right of ownership and be the subject of contract.
- Includes real, personal, tangible, and intangible rights.
- However, one cannot have a vested right to a public office, as this is not regarded as property.
- This also does not include mere privileges granted by law, like the privilege to open a business.

# Substantive Due Process

- Substantive Due Process requires the intrinsic validity of the law in interfering with the rights of the person to his life, liberty, and property.
- The essential question is whether the law is valid or not.
- Two requisites: (1) the law must have a valid governmental objective, and (2) the law's objective must be pursued in a lawful manner.
- The law must have a valid government objective – the interests of the public generally as distinguished from those of a particular class require the intervention of the State.
- The law's objective must be pursued in a lawful manner – the means employed must be reasonably related to the accomplishment of the purpose and not unduly oppressive.



# Illustration – Villavicencio v. Lukban (1919)

- This involves the deportation of approximately 170 women from Manila to Davao, Mindanao, by the Mayor of Manila, Justo Lukban, and the Chief of Police, Anton Hohmann. The women, who were prostitutes from a segregated district in Manila, were forcibly taken from their homes without prior notice, consent, or opportunity to collect their belongings. They were transported to Davao under the guise of being sent as laborers.
- The Court held that the deportation of the women was illegal because it was carried out without any legal authority. The Mayor and Chief of Police acted beyond their powers, and no law authorized them to forcibly relocate individuals within the Philippines. The deportation violated the women's constitutional rights to liberty and due process. The Court emphasized that even individuals engaged in prostitution are entitled to the protection of the law.
- No valid governmental objective in deporting the 170 women. Also, the deportation was not lawful. (*Villavicencio v. Lukban*, G.R. No. L-14639, March 25, 1919)

# Procedural Due Process

- Justice is one which hears before it condemns, which proceeds upon inquiry and renders judgment only after a trial.
- The twin requirements of notice and hearing constitute the essential elements of due process.
- Requisites of procedural due process:
  - Impartial Court
  - Jurisdiction over the subject matter and person of the defendant
  - Defendant must have the opportunity to be heard
  - Judgment must be rendered upon a lawful hearing

# Impartial Court

- A court or judge affected by bias or prejudice cannot be expected to render a fair and impartial decision.
- Procedural due process requires the cold neutrality of an impartial judge.
- Section 1, Rule 137 of the Rules of Court provides for the disqualification of judges:

Section 1. Disqualification of judges. — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has been presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

# Jurisdiction (Competent Court)

- Procedural due process also requires a competent court.
- A competent court is one vested with jurisdiction over a case as conferred upon it by law.
- The court must also have jurisdiction over the person of the defendant or accused.
- Jurisdiction over the person of the defendant (civil cases) – voluntary appearance in court or by valid service of summons.
- Jurisdiction over the person of the accused (criminal cases) – voluntary appearance in court or by his/her valid arrest.

# Opportunity to be heard

- Notice to a party is essential to enable it to adduce its own evidence and to meet and refute the evidence submitted by the other party.
- The defendant/accused is merely given the **opportunity** to be heard. This right is not violated where a person is not heard because he/she has chosen, for whatever reason, not to be heard. If he opts to be silent where he has a right to speak, he cannot later be heard to complain that he was unduly silenced.
- **The right to be heard does not always make the side/argument of the defendant/accused justified.**
- This right also includes the right to meet and cross-examine his/her accusers and the witnesses against him/her.
- The right to be heard does not always necessitate oral arguments. Submission of position papers or memoranda would suffice.

# Judgment upon a lawful hearing

- Procedural due process requires that the judgment be based upon the lawful hearing previously conducted.
- The parties must be informed of how the case was decided, with an explanation of the factual and legal reason that led to the conclusions of the court.
- Section 14, Article VIII of the 1987 Constitution provides that *“no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it was based.”*
- In other words, the judge must consider all evidence presented in deciding a case.



**Thank you and study well**