

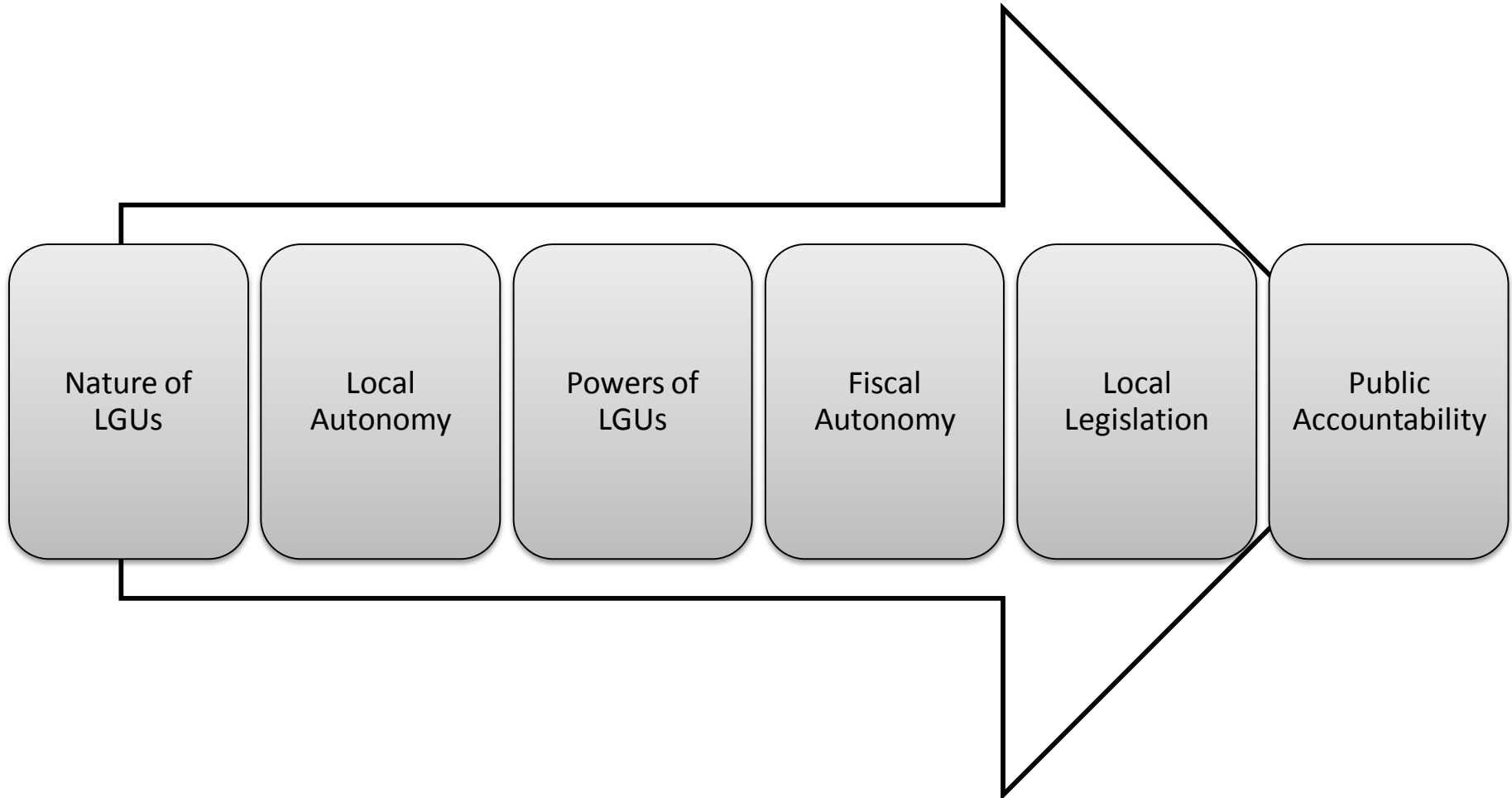
2013 to 2015 Cases

Reviewer on Local Government Law

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Flow



1. Nature of LGUs

- “Ours is still a **unitary form** of government, not a federal state.”
- LGUs are **Territorial and Political Subdivisions** (of 1 unit)
- **Not “*Imperium in Imperio*”**, Not Independent Sub-National Units
- **“Not impenetrable states”; under supervision of President and may be held accountable**
- **5 Levels/ Kinds** (Autonomous Regions, Provinces, Cities [**HUCs not under provincial oversight**], Municipalities and Barangays)
- LGUs are **Municipal Corporation Proper; Administrative Agencies; Public Offices**

1. Nature of LGUs

- **LGU Dual Capacities:** Governmental/ Public and Proprietary/ Private
- **Dual Agency:** LGUs as Agents of the State and People
- **Sources of Powers:** Constitution, Law and Charter (No Inherent Powers)
- Legislative (not constitutional) **Separation of Powers**
- **Corporate Succession** (Contractual Obligations)

1. Nature of LGUs

Creation

- **Legislative Act:** Charter (Not by Executive Branch unless State Recognition and No Judicial Dissolution; **President can merge administrative regions**); Authority to set requirements for certain local governments
- **Criteria:** Population, Land Area (**includes DENR-managed forestlands**) and (or) Income (internal or external); **liberal construction**
- **Distinct Personality:** Municipality to a City
- Failure to identify **Seat of Government** not fatal
- **Plebiscite** (directly affected; upgrade and downgrade; boundary disputes prejudicial question; plebiscite protest cases – Comelec; **conversion to HUC is substantial alteration of boundaries**)
- **Assail Existence:** Quo Warranto (5 years)

1. Nature of LGUs

<i>P/C/M/B</i>	<i>ARMM</i>	<i>CAR</i>	<i>MMDA</i>
AA; LGU	AA; LGU	AA	AA
Admin Autonomy	Political Autonomy	Not Enjoy Autonomy	Not Enjoy Autonomy
Police & Legislative Power	Police & Legislative Power	No Police Power; No Legislative	<u>No Police Power; No Legislative</u>
Presidential Supervision	Presidential Supervision	Presidential Control	Presidential Control
Amend by Law	<u>Amend by Law + Plebiscite</u>	Amend by Pres./ Law	Amend by Law

2. Local Autonomy

- “means a more **responsive** and **accountable** local government structure instituted through a system of **decentralization**”
- “does **not** contemplate making **mini-states** out of LGUs”
- “LGUs xxx form **part of the whole.**”
- “**Regional autonomy** is the degree of self-determination exercised by the LGU vis-à-vis the central government.”
- “**Autonomy** is either decentralization of administration or decentralization of power.”
- “Decentralization comes in two forms: **deconcentration** and **devolution.**”
- “Decentralization simply means the **devolution of national administration**, not power, to LGUs.”
- Setting the rate of the additional levy for the special education fund at less than 1% is within the taxing power of local government units and is consistent with the guiding constitutional principle of local autonomy since **LGUs given option**

2. Local Autonomy

<i>Administrative Decentralization</i>	<i>Political Decentralization</i>
Deconcentration	Devolution
Transfer of Functions: National to Regional	Transfer of Powers: Central to Local
Administrative	Powers, Responsibilities and Resources
LGC: Section 528	LGC: Section 17

Devolution

1. Delivery of Basic Services
2. Exercise of Regulatory Powers
3. Personnel
4. Assets, Equipment and Property
 - Administrative autonomy involves devolution subject to limitations – national policies, standards and laws
 - Exempted from devolution are nationally-funded projects, facilities and programs.

*Devolution is **power-specific**. Only those powers enumerated by law are transferred to LGUs. Those not expressly transferred are retained by the NGAs.*

Devolution

Basic Services

- School Buildings (DEPED)
- Hospitals (DOH), *not national hospitals*
- Socialized Housing (NHA)
- Agricultural Extension (DA)
- Day-care Centers (DSWD)
- Community-based Forestry Projects (DENR)

Regulatory Powers

- Approval of Subdivision Plans (HLURB), *not of national significance*
- Enforcement of Environmental Laws (DENR)
- Enforcement of National Building Code (DPWH)
- Franchising of Tricycles (LTFRB), *not PUBs/ PUJs*
- Inspection of Meat Products (DA)

2. Local Autonomy

<i>Decentralization of Administration</i>	<i>Decentralization of Power</i>
Delegation of Administrative Powers – Regulatory Powers and Basic Services	Abdication of Political Power
Relieves State from Burden of Managing Local Affairs	Free to Chart own Destiny
Executive Supervision	Executive Supervision Minimal State Intervention
Accountability to Central Government	Accountability to the Constituency; Self-Immolation
Provinces, Cities, Municipalities and Barangays	Autonomous Regions

2. Local Autonomy

<i>Areas</i>	<i>Delegation</i>	<i>Devolution</i>
<i>What is transferred?</i>	State Powers	Power of NGA
<i>Basis of Transfer</i>	Law; Congress	Congress (or President)
<i>Effectivity of Transfer</i>	Immediate; law effectivity	NGA facilitates actual transfer
<i>Examples</i>	3 Fundamental Powers	DSWD; DENR; HLURB; LTFRB

2. Local Autonomy

- “**Congress retains control** of the local government units although in significantly reduced degree xxx”
- “The Constitution confines the President's power over the LGUs to one of **general supervision**. This provision has been interpreted to exclude the power of control.”
- cannot be “**blunted by undue interference by the national government in purely local affairs**” (PDAF)
- “The President can only interfere in the **affairs** and activities of a local government unit if he or she finds that the latter has acted contrary to law.” (DILG can require full disclosure of budgets and expenses of IRA since required by law)
- “The matter being peculiarly **local in nature**, the municipal council alone is in a better position xxx” (Principle of Subsidiarity); **superior competence** in local matters; **purely local affairs best resolved by the officials and inhabitants of such political units**

2. Local Autonomy

Executive Supervision

- Overseeing
- Ensure that supervised unit follows law/ rules
- Allows interference if supervised unit acted contrary to law
- Over actor and act
- There must be a law (Yes - DOJ, DBM; None - DILG, DENR)
- Only involves questions of law (declare legal or illegal)

Control

- Lays down rules in doing of an act
- Impose limitations when there is none imposed by law
- Decide for subordinate or change decision
- Alter wisdom, law-conforming judgment or exercise of discretion
- Discretion to order act undone or re-done
- Prescribe manner by which act is done

2. Local Autonomy

Executive Supervision

1. Review of Orders and Ordinances
2. Disciplinary Action
3. Integration of Plans/ Zoning
4. Boundary Disputes
5. Leaves/ Resignation/ Vacancies
6. Augmentation of Basic Services

Legislative Control

1. Structure
2. Elective and Appointive Officials
3. Powers
4. Qualifications
5. Manner of Selection
6. Taxes
7. IRA/ National Wealth
8. Creation
9. Public Land (plaza cannot be converted to a commercial center)

2. Local Autonomy

- “Paradoxically, local governments are still subject to regulation, however limited, for the purpose of enhancing **self-government**.”
- National concern “cannot be subjected to **fragmented concepts** of management policies where xxx local government units exercise exclusive dominion over specific portions xxx” (National Dimension Rule; Integration/Centralization)
- “The Local Government Code xxx directs executive officials and employees of the municipality to **faithfully discharge** their duties and functions as provided by law.”
- Grants LGUs power to reorganize and streamline bureaucracy, adopt organization development program
- LGU no power over program funded under GAA even if it involves delivery of basic services in LGU

2. Local Autonomy (Conflict Resolution)

LGU Triumphed vs.

- DENR (ordinance)
- **DBM (allowance, budget officer)**
- COA (RATA)
- DENR (oil depots)
- **DOJ (tax ordinance)**
- **Regulate telecoms tower (NTC)**
- Higher LGU (review)
- DAR (reclassify, expropriation)
- **DILG (barangay liga)**
- OP (IRA)
- DOF (RPC/ LGC)
- BOI (6-year exemption)
- MMDA (subdivision, driver's licenses, nat'l dumpsite; terminals; review ordinances)
- NAPOCOR (voltage cables)
- DSWD (devolved personnel)
- Congress (IRA, amend Organic Act)

National Victorious vs. LGUs

- DENR (forestry laws)
- **LTO/ LTRFB (licensing)**
- HLURB (national projects)
- COA (additional allowance)
- **NTC (cable TV franchise)**
- DAR (conversion)
- GAB (jai alai frontons)
- **LLDA (fishpens, dumpsite)**
- BCDA (creation of Zone)
- PAGCOR (casinos)
- **PCSO (lotto outlets)**
- PRC (profession)
- LWUA (water districts)
- DPWH (city engineer)
- CSC (dismissal)
- OP (discipline)
- Congress (jai alai franchise)

2. Local Autonomy

*In favor of **NGA/ GOCC** if:*

- Integration
- Centralization
- Avoid fragmentation
- Mandate exclusive under Charter/ law
- Implied repeals not favored
- Instrumentalities of the State
- National or cross-boundary concerns are best addressed by NGAs/ GOCCs

National Dimension Rule

In sum, follow the law.

*In favor of **LGU** if:*

- Local autonomy
- Local concern/ issue
- ‘Isolated’ issue
- No law will be violated
- Amounted to control
- Express repeal; Conclusive implied repeal
- Beyond powers of NGA/ GOCC
- Local concerns are best addressed by LGUs (Principles of Subsidiarity and Stewardship)

Local/ Municipal Dimension Rule

3. Powers of LGUs

- LGUs not possess **inherent powers** but have **broad powers** because of local autonomy
- LGUs have constitutional and statutory **powers**
- Powers **interpreted** in favor of LGUs (local autonomy; fiscal autonomy; local over national; lower over higher)

3.1 Police Power

- **Delegated** to all LGUs
- **Basis of Police Power:** General Welfare Clause (the delegation in statutory form of the police power of the State to LGUs)
- **Reason for Delegation:** Dual Agency
- **Hierarchy:** The general welfare in terms of economic benefits cannot override the very basic rights to life, security and safety of the people
- **2 Requisites:** Lawful Subject (equal protection; public interest requires interference) *and* Lawful Method (due process; reasonable means = purpose)
- **2 Tests:** Rational Relationship (governmental interest and means) *and* Strict Scrutiny (compelling, not just substantial)
- **2 Branches:** General Legislative and Police Power Proper

3.1 Police Power

Cannot be Done

1. Prohibit establishment of PAGCOR casinos
2. Prohibit setting up of PCSO lotto outlets
3. Regulate Jai Alai frontons
4. Regulate professions regulated by PRC
5. Operate dumpsites in violation of environmental standards
6. Issue drivers' licenses
7. Register motor vehicles
8. Regulate or Tax jueteng

3.1 Police Power

9. Prohibit the operation or establishment of massage parlors, beerhouses, motels, etc. in a certain area/ road or conversion to other businesses without just compensation
10. Order the closure of a bank not performing illegal activities for non-payment of taxes
11. Padlocking of an establishment without according owner due process
12. Allow 3 cockpits
13. Declare a bus terminal a nuisance per se and order its closure
14. Declare a thing a nuisance per accidens
15. Demolition of a building without court order
16. Declare a gas station as nuisance per se

3.1 Police Power

- 17. Ban Rallies
- 18. Lease of public plaza
- 19. Wanton denial of issuance of mayor's permit
- 20. Mayor not remove oil terminals per ordinance
- 21. Mayor not release funds when appropriations approved
- 22. Demolish a wall or build a fence with a setback for the purpose of allowing the general public to use the property of the private owner for free depriving the owner of exclusive use
- 23. Mayor ordering demolition of structures violating National Building Code (Building Official is the one authorized)
- 24. Order the summary demolition or eviction if it was not shown that the structures are in danger areas or public areas; or when the occupants are neither new squatters nor professional squatters nor members of squatting syndicates as defined in RA No. 7279

3.1 Police Power

Can be done

1. Issue a zoning ordinance
2. Prohibit the expansion of a hospital based on the approved a new zoning ordinance
3. Restrict the use of property since contractual restrictions on the use of property could not prevail over the reasonable exercise of police power
4. Declare a thing a nuisance per se
5. Demolish a hotel declared as a nuisance per accidens since property rights can be subject to restraints in order to fulfill objectives of gov't
6. Order stoppage quarrying operations when operator has not secured provincial permit

3.1 Police Power

7. Privatize the administration of parking for environmental and peace and safety reasons
8. Punong barangay can issue barangay protective order (Anti-Violence against Women and Children)
9. Purchase the property in behalf of the city (by the City Treasurer), in the absence of the public in the public bidding
10. The authority of a municipality or city to impose fees is limited to the collection and transport of non-recyclable and special wastes and for the disposal of these into the sanitary landfill. Barangays, on the other hand, have the authority to impose fees for the collection and segregation of biodegradable, compostable and reusable wastes from households, commerce, other sources of domestic wastes, and for the use of barangay MRFs

3.1 Police Power

11. Demolitions and evictions may be validly carried out even without a judicial order in the following instances: (1) when the property involved is an expropriated property xxx pursuant to Section 1 of P.D. No. 1315; (2) when there are squatters on government resettlement projects and illegal occupants in any homelot, apartment or dwelling unit owned or administered by the NHA pursuant to Section 2 of P.D. No. 1472; (3) when persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways and other public places such as sidewalks, roads, parks and playgrounds, pursuant to Section 28(a) of R.A. No. 7279; (4) when government infrastructure projects with available funding are about to be implemented pursuant to Section 28(b) of R.A. No. 7279
12. Redeem property for tax deficiency notwithstanding fraud committed by officers
13. Supervise and control the collection of garbage

3.2 Eminent Domain

- **Definition:** Taking, Private Property, Public Purpose, Just Compensation
- **Compared to Police Power:** Taking (can be used after taking; transfer of business; portion for indigent - ED; zoning - PP)
- Not Inherent; Delegated; **‘Inferior’ Domain**
- **Limitations:** Observance of due process and Payment of just compensation (strict construction)
- **Foundation:** genuine public necessity (not present when others willing to sell; other facilities available)
- **Enabling Measure:** Ordinance (Not Resolution)

3.2 Eminent Domain

- **LGU Branch:** Legislative and Executive
- **Reason** stated in Ordinance
- Ordinance **before** Expropriation case
- **RTC** has jurisdiction
- Valid and definite **offer**
- Comply with Constitution and **Statutes** (e.g. UDHA)
- **Immediate Entry:** Sufficiency in Form & Substance and Provisional Deposit; Determination of public purpose in a hearing not required

3.2 Eminent Domain

- **Role of Higher-Reviewing LGU:** Question of Law - Within Scope, Followed Procedure, Not Choice of Property
- **Role of Courts (RTC):** Necessity, Choice of Property, Just Compensation, Requirements, Compel Execution/ Payment
- **Role of NGAs:** DA/ DAR approval not required (agricultural land)

3.2 Eminent Domain

<i>Eminent Domain</i>	<i>Zoning</i>	<i>Reclassify</i>	<i>Conversion</i>
Taking	Police Power	Administrativ	Administrativ
Change of Owner	No Change	No Change	No Change
Any Land	Any Land	Agri to Non-Agri	Agri to Non-Agri
Change in Use of Land	No Actual Change	No Actual Change	Change in Use of Land
All LGUs	(P)/C/M	C/M	DAR

4.1 Fiscal Autonomy

- “**Local autonomy** includes both administrative and fiscal autonomy.”
- “**Fiscal autonomy** means that local governments have the power to create their own ***sources*** of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to ***allocate*** their resources in accordance with their own priorities.”
- “It extends to the preparation of their ***budgets***, and local officials in turn have to work within the constraints thereof. They are not formulated at the national level and imposed on local governments, whether they are relevant to local needs and resources or not.”
- Fiscal autonomy does **not** leave LGUs with **unbridled discretion** in the disbursement of public funds. They remain accountable to their constituency.

4.1 Fiscal Autonomy

- “The only way to shatter this culture of dependence is to give the LGUs a wider role in the delivery of basic services, and confer them **sufficient powers to generate their own sources** for the purpose.” (no local autonomy without fiscal autonomy and vice-versa)
- “The important legal effect of Section 5 (of Article X of the 1987 Constitution) is that henceforth, in **interpreting statutory provisions** on municipal fiscal powers, doubts will have to be resolved in favor of municipal corporations.”
- **NGA** cannot impose limitation when law imposes none. (allowance of judges, RATA)

4.2 Power to Tax

- **Nature of Grant:** Constitutional (not merely statutory); Not Inherent (subject to qualified congressional control); **not absolute**
- **Legislative Control:** Congress must still see to it that (a) the taxpayer will not be over-burdened or saddled with multiple and unreasonable impositions; (b) each local government unit will have its fair share of available resources; (c) the resources of the national government will not be unduly disturbed; and (d) local taxation will be fair, uniform, and just (cannot levy any tax on petroleum products or business tax on the gross receipts of transportation contractors)
- **Object:** “Widen tax base of LGUs”
- **Tax Exemption:** “limited and restrictive nature of the tax exemption privileges under the Local Government Code is consistent with the State policy to ensure autonomy of local governments”; “One of the most significant provisions of the LGC is the removal of the blanket exclusion of instrumentalities and agencies of the national government from the coverage of local taxation” (pre-LGC); GIs (MIAA; **PEZA; Mactan Cebu International Airport**) exempt

4.2 Power to Tax

- **List:** not exclusive (e.g. socialized housing tax)
- **Exclusivity:** Local taxes cannot be earmarked for non-LGU use
- **Review:** DOJ review procedure applies to taxes, not fees
- **Exceptions:** Any exception to the express prohibition under the LGC should be specific and unambiguous; the prohibition on the imposition of excise tax carries with it the prohibition to any tax on petroleum products
- **Contrasted with Regulatory Fees:** a regulatory fee must not produce revenue in excess of the cost of the regulation because such fee will be construed as an illegal tax when the revenue generated by the regulation exceeds the cost of the regulation (e.g. garbage fee)

4.3 Internal Revenue Allotment

- *Alvarez 1996*: IRA part of **income**
- *Pimentel 2000*: Withholding of IRA amounted to control and infringed on fiscal autonomy; Requirements under LGC not followed (**executive withholding**)
- *Batangas 2004*: Placement of IRA in Local Government Special Equalization Fund violative of fiscal autonomy and automatic release provision (**legislative withholding**)
- *ACORD 2005*: **Earmarking** of IRA in Unprogrammed Funds does not conform with automatic release provision; GAA cannot amend LGC (**legislative withholding**)
- *CSC 2005*: ‘**No Report, No Release**’ policy runs counter to automatic release provision (**regulatory withholding**)

4.4 Other Sources of Funds

Constitutional

- Equitable Share in Utilization and Development of National Wealth
- Fees and Charges
- Other Sources

Statutory

- Loans
- Grants
- Private Sector Participation
- Bonds and Debentures

5. Local Legislation

Characterization

- Delegated Authority (by Constitution and Law)
- Subordinate Legislation (to Constitution and Law – Pass tests of constitutionality and consistency with prevailing statutes) (early retirement ordinance not violate law against proliferation of supplementary retirement benefits)
- Denominated Legislation (must follow procedures)
- Derivative Legislation (from people)

Presumptions

- Presumed Valid and Constitutional (substance)
- Sanggunian presumed to have acted with regularity (procedure)

5. Local Legislation

Local Legislative Bodies

- Collegial Body (in a session; verbal concurrence not enough)
- Quorum (all elected and qualified)
- Voting Requirement (Majority, exception)
- Integrity of Procedure (parole evidence, oral testimony, burden of proof)
- 1st day of Session (Internal Rules of Procedure; Other Matters)
- Readings (possible 3 readings in 1 day)
- No Coercive Powers (unlike Congress)
- Tax Ordinances: Notice and Public Hearing
- On Contracts: Prior authorization (ratification); not filing of cases (except when required by law, e.g., eminent domain)

5. Local Legislation

<i>Ordinances</i>	<i>Resolutions</i>
Equivalent to Law	Expression of Sentiment or Opinion
Public or Governmental	Private or Proprietary
More or Less Permanent	Temporary
GR: undergo 3 readings	GR: undergo 2 readings
All subject to Veto and Review	Only Some subject to Veto and Review

5. Local Legislation

Why Distinguish?

- Legality (expropriation; reclassification; **terms of loan**)
- Applicable Procedure (veto and review)
 - Resolutions subject to review, published and posted (loan obligation)
 - Authority to sign contract in resolution form but the terms of loan obligations must be authorized in an ordinance

5. Local Legislation

Tests are divided into the formal (i.e., whether the ordinance was enacted within the corporate powers of the LGU and whether it was passed in accordance with the procedure prescribed by law), and the substantive (i.e., involving inherent merit, like the conformity of the ordinance with the limitations under the Constitution and the statutes, as well as with the requirements of fairness and reason, and its consistency with public policy)

Tests of Valid Ordinance: Ordinances must **NOT**:

- contravene Constitution
- be inconsistent with Statutes
- discriminate
- be unreasonable
- be contrary to public policy
- prohibit trade

5. Local Legislation

Operative Fact

- “void legislative act xxx” does “not confer any right nor vest any privilege to xxx” (grant of franchise)
- A mayor cannot be held personally liable if his actions were done pursuant to an ordinance which, at the time of the collection, was yet to be invalidated

5. Local Legislation

<i>Veto</i>	<i>Review</i>
Intra-LGU	Inter-LGU
Local Chief Executive	Higher Sanggunian
Ultra Vires or Prejudicial to Public Welfare	Ultra Vires Question of Law
Province: 15 days City/ Municipality: 10	30 days
Reversal by Override	Reversal by Judicial Action

5. Local Legislation

Local Chief Executive	Vice-LCE/ Sanggunian
Executive; Ministerial to Implement; Veto or Approve	Legislative Enact, Amend or Repeal
Appoint Employees of Executive Branch	Appoint Employees of Sanggunian/ Office provided Appropriation of Sanggunian
Approves Disbursement Vouchers, Payments, Sign Warrants, Purchase Orders for Operation of Executive Departments	Approves Disbursement Vouchers, Payments, Sign Warrants, Purchase Orders for Operation of Sanggunian
Appropriations: Veto; If Approved, release of Public Funds authorized, authorization not in ordinance	Passage of Appropriations Ordinance; terms of loan obligation in ordinance
Cockpits: Business Permit	Enabling Ordinance: License

5. Local Legislation

- **Role of NGAs:** When there is a Law and only on Questions of Law (i.e. DOJ, DBM, not OP, DENR and DILG)
- **Role of Courts:** Declare Invalid, Illegal and Unconstitutional (declaratory relief); Courts will go slow in writing off an ordinance as unreasonable unless the amount is so excessive as to be prohibitive, arbitrary, unreasonable, oppressive, or confiscatory, examine municipal conditions as a whole
- **Contracts:** Prior authorization (unenforceable; may be ratified – acquiescence and benefit e.g. recognition; specific and current appropriation)
- **Effectivity:** Ordinances and resolutions approving the LDPs and PIPs formulated by the LDCs of the Sangguniang Bayan or Sangguniang Panlungsod become effective after review by the Sangguniang Panlalawigan, posting on the bulletin board, and publication

6. Public Accountability

- **2 Levels:** Corporate and Personal
- **2 Capacities:** Governmental and Proprietary
- “**faithfully discharge** their duties and functions as provided by law”
- “**Accountable** Public Officers”
- “**Real Party in Interest**” (dismissal and appointment)
- Loyalty/ **1-Office Rule**
- Performance of **Constitutional and Statutory Duties** (i.e. midnight appointments not applicable to LGUs but CSC can impose restrictions, termination of barangay treasurer)
- Local chief executives have control over office orders, programs, projects, services, and activities

6. Public Accountability

- Subject to **Disciplinary Action** (part of Supervision; Types of Offenses – administrative and penal)
- **2 Authorities:** Disciplining and Investigation
- Enjoys Fixed **Term**; Has Term-Limit
- Subject to **Several Jurisdictions**
- Effect of **Re-Election** on cases (criminal – continue; administrative- condoned; only applies to official)
- Rule on **Succession** (Acting Capacity, Ranking, Last Vacancy, 2nd placer; **Vice-Mayor automatically assumes powers of mayor when mayor abroad**)
- **Position, not Person:** A writ directed at the mayor is not in his personal capacity, but in his capacity as municipal mayor, so that it is not irregular whether it was served upon him during his earlier term or in his subsequent one

6. Public Accountability

Term of Office

- Municipality converted to a City (or barangay in municipality later converted to a city)
- 6 Conditions:
 1. Elected to the Position (councilor - even if renamed district represents 8 of 10 LGUs)
 2. Fully Served the Term (not violate when assume after winning election protest)
 3. No Actual Break
 4. Immediate Reelection
 5. Regular Elections
 6. Involuntary

6. Public Accountability

Disciplinary Action: Violation of

1. 1991 Local Government Code
2. Anti-Graft and Corrupt Practices Act
3. Revised Penal Code and other Penal Laws
4. Omnibus Election Code
5. Other Special Laws

6. Public Accountability

Offenses: Examples

1. Usurpation of Authority (mayor under preventive suspension)
2. Reliance on Subordinates (exception)
3. Technical Malversation (use diverted)
4. Unwarranted Benefits (salary to dismissed employee)
5. Financial or Pecuniary Interest (license to cockpits)
6. Moral Turpitude (fencing)
7. Bad Faith (signing of voucher)
8. Illegal Dismissal (corporate vs. personal liability)
9. Grossly disadvantageous contract
10. COA-approved Disbursements
11. Partial Restitution of Cash Shortage (misappropriation)
12. Onion-skinned Officials
13. Conversion of a plaza to commercial center
14. Pay for salaries of duly-appointed employee

6. Public Accountability

Procedure in Administrative Cases

- Constitutional Rights of Accused
- Procedural Due Process
- Form of Complaint
- Substantial Evidence
- Notice of Session not required
- Decisions when final and executory
- Stay of Execution
- Rule on Exhaustion of Administrative Remedies
- When appeal
- Effect of filing of Motion for Reconsideration

6. Public Accountability

Penalty

- Removal by Courts only (exception)
- Each administrative offense, 6 months

Preventive Suspension

- Prerequisites (and exceptions)
- Grounds supported by evidence
- Period (Higher LGU/ Sandiganbayan: 60 days; Ombudsman: 6 months)
- MR with Higher LGU before Courts
- Authority of President/ Ombudsman

6. Public Accountability

Recall

- No Preparatory Recall Assembly, only Popular Petition (RA 9244)
- Loss of Confidence a political question
- Another Petition if Official succeeds to another office
- 1-Year Ban refers to Recall Election
- Meaning of ‘Regular Recall Election’

THANK YOU. GOOD LUCK.