Chapter 18

Central Bank Employees Association
v. Bangko Sentral ng Pilipinas:

Constitutionality of Increases in CB Employees' Compensation

An initially valid provision of law can become subsequently unconstitutional when its continued operation would violate the equal protection of the law.

Thus ruled the Court in *Central Bank Employees Association v. Bangko Sentral ng Pilipinas.*[1] It declared in that case that the last proviso of Section 15 (c) of Article II of Republic Act No. 7653[2] was unconstitutional for being an "invidious discrimination" against the 2,994 rank-and-file employees of the Bangko Sentral ng Pilipinas (BSP).

To set the case in the proper context, let me narrate the background.

The Facts

On July 3, 1993, RA 7653 abolished the old Central Bank of the Philippines (CB) and created a new Bangko Sentral ng Pilipinas (BSP). Almost eight years after, the Central Bank (now BSP) Employees Association, Inc. filed a petition for prohibition against the BSP and the Office of the President, which were sought to be restrained from further implementing the last proviso in Section 15(c), Article II of RA No. 7653,[3] on the ground that it was unconstitutional.

The provision allegedly distinguished between two classes of employees in the BSP: (1) the *officers* who were exempted from the coverage of the Salary Standardization Law (SSL); and (2) the *rank-and-file* (Salary Grade [SG]-19 and below) who were not exempted from the coverage of the SSL. It was argued that the classification was not reasonable, but arbitrary and capricious, and violated the equal-protection clause of the Constitution. The proviso was allegedly not germane to the purposes of Section 15(c) of Article II of RA 7653, the most important of which was to establish professionalism and excellence at all levels in the BSP.

On the other hand, the BSP contended that the provision could stand the constitutional test, provided it was construed in harmony with other parts of the same law that provided for, among others, the "fiscal and administrative autonomy of BSP"; and with the mandate of the Monetary Board to "establish professionalism and excellence at all levels in accordance with sound principles of management." On behalf of the respondent executive secretary, the Office of the Solicitor General argued that the classification was based on actual and real differentiation.

Issue

The sole issue was whether the last paragraph of Section 15(c) of Article II of RA 7653 violated the constitutional mandate of equal protection of the laws.

The Court's Ruling

Voting 9[4] to 4, the Court held that while the questioned proviso was not, on its face and by itself, constitutionally infirm under the "equal protection" clause, subsequent laws[5] amending the charters of seven other governmental financial institutions (GFIs) had worked a discriminatory effect upon the rank-and-file employees of the BSP. Hence, the continued operation of the provision violated the equal-protection guarantee of the Constitution.

Relative Constitutionality

Under the concept of relative constitutionality, the *ponente,* Justice Reynato S. Puno, explained that a statute that was valid at one time could become void at another time because of altered circumstances or changed conditions. To support this position, he cited a number of US cases,[6] as well as *Rutter v. Esteban*[7] in Philippine jurisprudence.

The proviso in question was subjected to a two-tiered scrutiny to determine its constitutionality: the "rational basis test" and the "strict scrutiny test."

The majority conceded that RA 7653 had started as a valid measure. Its classification between the rank-and-file and the officers of the BSP was found reasonable due to substantial distinctions or real differences between the two classes. Particularly, the exemption of officers (SG-20 and above) from the SSL was intended to address the BSP's lack of competitiveness in terms of attracting competent officers and executives, not to discriminate against the rank-and-file. Thus, the provision passed the "rational basis" test.

Nonetheless, the petitioners contended that the enactment of subsequent laws exempting from the SSL all rank-and-file employees of the seven GFIs constituted a significant change in circumstance that considerably altered the reasonableness of the continued operation of the proviso in question. Scrutinized this time was the constitutionality of the classification of the rank-and-file employees of the BSP and that of the seven other GFIs, who all belonged to the same class. Between persons who were similarly situated, the proviso could not unjustly distinguish or grossly discriminate in its operation.

Against the standard of "strict scrutiny," the disparity in the treatment of the rank-and-file employees of the BSP and those of the other
GFIs could not stand judicial scrutiny. It was held that there were no characteristics peculiar only to the rank-and-file employees of the seven GFIs that would justify the exemption that was denied to those of the BSP. Moreover, the challenged provision operated on the basis of the salary grade or officer-employee status, a distinction akin to that based on economic class and status. That classification was suspect, as shown by a number of international conventions, as well as foreign and international jurisprudence.

Finally, it was stressed that, under most circumstances, the Court would exercise judicial restraint in deciding questions of constitutionality and would base judicial scrutiny on the "rational basis" test. It was equally stressed, though, that such scrutiny ought to be stricter if and when "the challenge to the statute is premised on the denial of a fundamental right, or the perpetuation of prejudice against persons favored by the Constitution with special protection x x x." A weak and watered-down view would call for the abdication of this Court's solemn duty to strike down any law repugnant to the Constitution and the rights it enshrines.

The Dissenting Opinions

My Dissent

I dissented from the majority opinion, believing that it would be *uncalled for, untimely and imprudent* for the Court to void the last proviso of the second paragraph of Section 15(c) of Chapter 1 of Article II of Republic Act (RA) 7653.

First, I contended that the assailed provision was unconstitutional, either on its face or as applied, inasmuch as the theory of relative constitutionality was inapplicable to and not *in pari materia* with the present facts.

It was clear that the theory of relative constitutionality would be relevant only when there is *a change in the factual situation covered by an assailed law,* not upon the passage of another law pertaining to subjects not directly covered by the assailed law or to alterations extraneous to those specifically addressed.

From a close reading of the American cases[8] cited in the *ponencia*, I pointed out that the laws that had been declared invalid in those cases because of "altered circumstances" or "changed conditions" were of the emergency type passed in the *exercise of the State's police power*, unlike the law involved in the present case. *Rutter v. Esteban*[9] did not apply either, because the assailed provision in the present case was not a remedial measure subject to a

period within which a right of action or a remedy was suspended. Since the reason for the passage of the law still continued, the law itself must continue.

I also submitted that the concept of *relative constitutionality* strongly advocated in the *ponencia* not only went beyond the parameters of traditional constitutionalism, but also found no express basis in positive law.

Second, on the part of this Court, a becoming respect for Congress as a coequal and coordinate branch of government dictated that the latter be given ample opportunity to study the situation, weigh its options, and exercise its constitutional prerogative to enact whatever legislation it deemed appropriate to address the alleged inequity pointed out by petitioner. Besides, there was no urgency that required the peremptory striking down of the assailed provision. Neither were the injuries sustained shown to have required immediate action on the judiciary's part.

Congress is in fact deliberating upon possible amendments to the assailed proviso. Since there is no question that it validly exercised its power and committed no grave abuse of discretion when it enacted the law, its will must be sustained. Under the doctrine of separation of powers with concomitant respect among coequal and coordinate branches of government, this Court has neither the authority nor the competence to create or amend laws.

Third, the assailed provision passes the three-tiered standard of review for equal protection.[10] It is both a social and an economic measure rationally related to a

governmental end that is not prohibited. Since salary grade, class of position, and government employment are not fundamental or constitutional rights, and non-exempt government employees or their financial need are not suspect classes, the government is not at all required to show a compelling state interest to justify the classification made. The provision is also substantially related to the achievement of sufficiently important governmental objectives. A law does not become invalid because of simple inequality, or because it does not strike at all evils at the same time.

The Carpio Dissent

Justice Antonio T. Carpio likewise wrote a Dissent and voted to dismiss the Petition for the following reasons.

First, the majority opinion did not annul a law -- Section 15(c), Article II of RA 7653 -- but "enacted" into law a pending bill[11] in Congress. It invaded the legislative domain, as it preempted Congress by declaring through a judicial decision that BSP rank-and-file employees were now exempt from the SSL.

Second, the *ponencia* erroneously classified the BSP, a regulatory agency exercising sovereign functions, in the same category as non-regulatory corporations exercising purely commercial functions like the Land Bank of the Philippines (LBP), Social Security System (SSS), Government Service Insurance System (GSIS), Development Bank of the Philippines (DBP), Small Borrowers Guarantee Fund Corporation (SBGFC), and Home Guarantee

Corporation (HGC).

Justice Carpio noted that non-regulatory GFIs derived their income solely from commercial transactions. They competed head on with private financial institutions. Their operating expenses, including the employees' salaries, came from their own self-generated income from commercial activities. However, regulatory GFIs like BSP and the PDIC[12] derived their income from mandatory government exactions, like fees, charges and other impositions that all banks were by law required to pay. Regulatory GFIs had no competitors in the private sector. Obviously, the BSP and PDIC did not belong to the same class of GFIs as the LBP, SSS, GSIS, SBGFC, DBP and HGC.

The Morales Dissent

Madame Justice Conchita Carpio Morales also wrote a Dissenting Opinion, 145 pages long. Contrary to the weight of the applicable legal authorities, she said, was the *ponencia's* conclusion: that being an employee of a government-owned and -controlled corporation (GOCC) or of a government financial institution (GFI) was a reasonable and sufficient basis for exemption from the Salary Standardization Law. The Court's conclusion also involved an evaluation of the wisdom of the law and a preemption of the congressional power of appropriation. Moreover, the ruling would result in an increase, rather than a reduction, in the inequality within the government service.

Proceeding from the basic framework for equal-protection analysis and the presumption

of constitutionality accorded a statute, Justice Morales inquired into the standards used to measure the validity of RA 7653. The approaches she found to have evolved from American case law were (1) the traditional deferential "rational basis test,"[13] (2) the "intermediate scrutiny" test,[14] and (3) the more demanding "strict scrutiny test," which was employed in the *ponencia.* The third test generally applied to classifications considered to be "suspect" because of possible violations of civil rights[15] and statutes infringing fundamental, constitutionally protected rights.[16]

The *ponencia* simultaneously made use of both the rational basis and the strict scrutiny tests. In assessing the validity of the classification between officers and rank-and-file employees in Section 15(c) of The New Central Bank Act, the rational basis test was applied. The strict scrutiny test was used in evaluating the distinction between the rank-and-file employees of the BSP; and those of the LBP, DBP, SSS and GSIS.

Yet, there was no justification for the use of that "double standard," Justice Morales contended. It was improperly used under the concept of relative constitutionality.[17] Because the scope of application of each standard was distinct and exclusive of the others, the US Federal Court had in fact never applied more than one standard to a given set of facts.

Moreover, it was pointed out that the persons allegedly discriminated against -- the rank-and-file employees of the BSP -- and the rights they were asserting (to be exempted from the compensation classification system prescribed by the SSL) remained the same, whether the classification under review was between them and the executive officers of the BSP; or the

rank-and-file employees of the LBP, DBP, SSS and GSIS. Thus, the test or standard against which the petitioner's claims were to be measured should likewise be the same, whether it was related to the constitutionality of (1) the classification in Section 15(c) of The New Central Bank Act or (2) the classification resulting from the amendments of the charters of the other GOCCs/GFIs.

In the assessment of the validity of the questioned proviso in the light of subsequent legislation, it was also a familiar rule that statutes *in pari materia* should be read together, Justice Morales added. The SSL, the New Central Bank Act, and the amended charters of the other GOCCs and GFIs could be deemed *in pari materia,* insofar as they pertained to the compensation and position classification system(s) covering government employees. Consequently, she said, the provisions of these statutes concerning compensation and position classification, including the legislative classifications they made, should all be read and evaluated together in the light of the equal-protection clause.

As to the appropriate standard, she opined that the strict scrutiny test could not be applied. It was not shown that Article II of Section 15(c) of the New Central Bank Act had burdened any fundamental right of its members, other than the guarantee of equal protection of the laws. Also, there was no suspect class involved, since a classification that was based on financial need was not suspect.[18]

The application of the rational basis test would have been enough, she concluded. As correctly noted in the *ponencia*, the classification between BSP officers and rank-and-file

employees was based on substantial and real differences that were germane to the purpose of the law. *First*, between these two classes of employees, there were real differences as to the scope of work and degree of responsibility. Within the civil service, classification on the basis of salary grade or between officers and rank-and-file employees were intended to be rationally and objectively based on merit, fitness and degree of responsibility, and not on economic status. *Second*, the purpose behind the exemption from the SSL of officers ranked SG-20 and above was to increase the competitiveness of the BSP in the industry's labor market. By offering attractive salary packages, it hoped to entice top executives and officials and to deter competent officers from leaving. An examination of the legislative deliberations of both the House of Representatives and the Senate shows that there was never any intention to provide all BSP personnel with a blanket exemption from the coverage of the SSL.

Moreover, Justice Morales also said that there was nothing new about the argument that the rank-and-file employees of the BSP could benefit from subsequent classifications in other statutes pertaining to other GFI employees, on the theory that they were identically or analogously situated or were members of the same class. Such argument was in fact founded on the fourth requisite of the rational basis test -- that a reasonable classification must equally apply to all members of the same class. Rather, the relevant issue was whether the employees of the BSP and of the other GFIs were so similarly situated as to be regarded as members of a single class for purposes of compensation and position classification. That question, she said, must be answered in the negative.

The conclusion of the main opinion was that the distinguishing trait among those exempted from the coverage was their status as GFI employees. Such distinction tacitly

rested on the assumptions that -- with respect to their compensation, position classification, and qualification standards -- (1) the rank-and-file employees of the BSP, together with similar employees of the LBP, SSS, GSIS and DBP, belonged to a single class; and (2) there were no reasonable distinctions between the rank-and-file employees of the BSP and the exempted employees of the other GOCCs/GFIs. These assumptions are unfounded, however; and the assertion that “GFIs [had] long been recognized as one distinct class, separate from other governmental entities” was demonstrably false.

Neither the text nor the legislative record of the SSL manifested any intent to give GOCCs and GFIs a “favored treatment.” On the contrary, Section 4[19] of the Salary Standardization Law expressly provided the general rule that GFIs, like other GOCCs and all other members of the civil service, were within the coverage of the SSL.

Furthermore, the exemption of the personnel of the Securities and Exchange Commission (SEC) from the coverage of the Compensation Classification System underscored the error in maintaining employment in a GFI as the defining trait of employees exempted from the compensation classification system. In actual fact, the employees of a number of GFIs remained *within* the coverage of the Compensation Classification System, while employees of several other GOCCs and government agencies were exempted from it. Hence, GFI employment, as advocated by the main opinion, could not be reasonably considered to be the basis for exemption from the compensation classification system of the SSL.

More important, an examination of the legislative proceedings leading to the amendment of the charters of the GOCCs and the GFIs that were exempted from the coverage of the Compensation Classification System disclosed that mere employment in a GFI was *not* the decisive characteristic that had prompted the legislature to provide for such exemption. The basis for the provision was not the mere fact that they were employees of GOCCs or GFIs, but a policy determination by the legislature that such exemption was needed to fulfill the mandate of the institution concerned.

Among other considerations were the following: (1) the GOCC or GFI was essentially proprietary in character; (2) the GOCC or GFI was in direct competition with its counterparts in the private sector; and (3) the GOCC or GFI was experiencing difficulties in filling up and/or retaining competent personnel in plantilla positions. The need for and the scope of the exemption necessarily varied with the particular circumstances of each institution; the corresponding variance in the benefits received by the employees was merely incidental.

No doubt, the BSP employees shared a common attribute with those of the LBP, SSS, GSIS and DBP: all were employees of GOCCs performing fiduciary functions. But these similarities alone were not sufficient to lump them together for purposes of compensation, position classification and qualifications standards. An examination of the legislative records of the amended charters of the exempt GOCCs and GFIs manifested real and material differences. In this regard, it was noted that (1) the Central Monetary Authority performed a primarily government function, rather than a proprietary or business function; (2) unlike the LBP, DBP, SSS and GSIS, the BSP was not subject to cutthroat competition or the pressures of either the financial or the job market; and (3) there was no indication in the record that the

BSP -- unlike the LBP, DBP, SSS and GSIS -- was experiencing difficulty in filling up or maintaining competent personnel in the positions ranked S-19 and below.

On the basis of the above differences in factual circumstances, Justice Morales opined that the questioned proviso could not be considered as oppressive or discriminatory in its implementation. Significantly, there was no showing of any injuries sustained by the BSP employees as a result of the questioned proviso, whether or not read together with subsequent legislative enactments.

Moreover, congressional records showed that House Bill 123 had been filed with the present Thirteenth Congress in order to amend the New Central Bank Act by, among other things, exempting all positions in the BSP from the Salary Standardization Law. Thus, Congress had not closed its mind to possible amendments to provide for the exemption of the BSP rank-and-file from the Compensation Classification System of the SSL.

In closing, lest this Court stray from its function of adjudication and trespass into the realm of legislation, Justice Morales maintained that under the relevant circumstances, judicial restraint was not merely preferable but in fact mandatory. It would be premature, she said, to curtail public debate on the issue of compensation of employees of the GOCCs and GFIs. To do so would, in effect, substitute this Court's policy judgments for those of the legislature, in whom the "power of the purse" was constitutionally lodged.

---

[1] GR No. 148208, December 15, 2004.

[2] Otherwise known as the "Central Bank Act."

[3] The questioned proviso reads:

Section 15. *Exercise of Authority* - In the exercise of its authority, the Monetary Board shall:

x x x x x x x x x

(c) establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the *Bangko Sentral* in accordance with sound principles of management.

A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the *Bangko Sentral's* human resource development program: *Provided,* That the Monetary Board shall make its own system conform as closely as possible with the principles provided for under Republic Act No. 6758 [Salary Standardization Act]. ***Provided, however*, That compensation and wage structure of employees whose positions fall under salary grade 19 and below shall be in accordance with the rates prescribed under Republic Act No. 6758.** [Emphasis supplied]

[4] Justices Artemio V. Panganiban, Antonio T. Carpio, Conchita Carpio Morales, and Cancio C. Garcia dissented. Justices Corona and Callejo Sr. were on leave.

[5] These laws were as follows:

1. RA No. 7907 (1995) for the Land Bank of the Philippines
2. RA No. 8282 (1997) for the Social Security System
3. RA No. 8289 (1997) for the Small Business Guarantee and Finance Corporation (SBGFC)
4. RA No. 8291 (1997) for the Government Service Insurance System
5. RA No. 8523 (1998) for the Development Bank of the Philippines (DBP)
6. RA No. 8763 (2000) for the Home Guaranty Corporation (HGC)
7. RA No. 9302 (2004) for the Philippine Deposit Insurance Corporation (PDIC)

[6] *Vernon Park Realty v. City of Mount Vernon,* 307 N.Y. 493, 121 N.E.2d 517 (1954); Atlantic Coast Line R. Co., v. Ivey, 148 Fla. 680, 5 So. 2d 244, A.L.R. 973 (1941); *Louisville & N.R. Co. v. Faulkner*, 307 S.W. 2d. 196 (Ky. 1957). Excerpts from the *ponencia* on said cases are quoted hereunder:

"The Court of Appeals of New York, in Vernon, declared as unreasonable and arbitrary a zoning ordinance, which placed the plaintiff's property in a residential district, although it was located in the center of a business area. Later amendments to the ordinance then prohibited the use of the property except for parking and storage of automobiles, and service station within a parking area. The Court found the ordinance to constitute an invasion of property rights which was contrary to constitutional due process."

In *Atlantic*, "the Supreme Court of Florida ruled against the continued application of statutes authorizing the recovery of double damages plus attorney's fees against railroad companies, for animals killed on unfenced railroad right of way without proof of negligence. Competitive motor carriers, though creating greater hazards, were not subjected to similar liability because they were not yet in existence when the statutes were enacted. The Court ruled that the statutes became invalid as denying 'equal protection of the law,' in view of changed conditions since their enactment."

In *Louisville***,** "the Court of Appeals of Kentucky declared unconstitutional a provision of a statute which imposed a duty upon a railroad company of proving that it was free from negligence in the killing or injury of cattle by its engine or cars. This, notwithstanding that the constitutionality of the statute, enacted in 1893, had been previously sustained."

[7] 93 Phil. 68, May 18, 1953.

[8] After going over the cases cited individually, I observed the following:

"*Medill* not only upheld the constitutionality of the contested provision therein, but also categorically stated that the peculiar facts of the case prompted such declaration. General damages were declared exempt; the law allowing their exemption was constitutional. *Cook* simply affirmed *Medill* when the same contested provision was applied to an issue similar to that which was raised in the latter case, but then declared that provision unconstitutional when applied to another issue. Thus, while general damages were also declared exempt, the claims for special damages filed prior to the filing of a petition for relief were not, and the law allowing the latter's exemption was unconstitutional.

"The court's action was to be expected, because the issue on special damages in *Cook* was not at all raised in *Medill*, and there was no precedent on the matter in Minnesota, other than the *obiter dictum* -- if it can be called one -- in the latter case. Had that issue been raised in *Medill*, a similar conclusion would inevitably have been reached. In fact, that case already stated that while the court "need not decide whether special damages incurred prior to judgment x x x [were] to be exempt in order to decide the question" on general damages raised therein, it felt that exempting special damages appeared reasonable and likely to be applied, following an earlier ruling in another case. Moreover, the facts of both *Medill* and *Cook* are not at all akin to so-called "*changed conditions*" prompting the declarations of constitutionality in the former and unconstitutionality in the latter. Such "*altered circumstances*" or "*changed conditions*" in these two cases refer to the non-exemption of special damages -- a subject matter distinct and separable, although covered by the same assailed statute. In fact, *Cook* precisely emphasized that "*where a statute is not inherently unconstitutional, it may be found constitutional as applied to some separable subject matters, and unconstitutional as applied to others.*" In other words, it was the *application* of the contested provision therein to an entirely different and separable subject matter -- not the contested provision itself -- that was declared unconstitutional, but the statute itself was not inherently unconstitutional to begin with.

"Equally important, *Nashville* skirted the issue on constitutionality. The "*changed conditions*" referred to in that case, as well as in *Atlantic* and *Louisville*, were the revolutionary changes in the mode of transportation that were specifically covered by the statutes respectively imposing additional costs upon railroad companies only, requiring the fencing of their tracks, or solely compelling them to present evidence to rebut the presumption of their negligence. In *Vernon*, these "*changed conditions*" were deemed to be the economic changes in the 1950s, through which the normal business use of the land was unduly limited by the zoning ordinance that was intended to address the acute traffic problem in the community.

"*Nashville* simply took judicial notice of the change in conditions which, together with the continued imposition of statutory charges and fees, caused deprivation of property without due process of law. *Atlantic*, *Louisville* and *Vernon* all relied upon *Nashville*, but then went further by rendering their respective contested provisions unconstitutional, because -- in the application of such provisions under "*changed conditions*" -- those similarly situated were no longer treated alike.

"Finally, *Murphy* -- obviously misplaced because it made no reference at all to the quoted sentence in the *ponencia* -- even upheld the validity of its contested provision. There was no trace, either, of any "*changed conditions*." If at all, the legislative classification therein was declared constitutional, because it was in fact a valid economic response to a legislatively perceived crisis concerning the availability and cost of liability insurance."

[9] 93 Phil. 68, May 18, 1953. The contested clause in *Rutter* was passed to accord prewar debtors, who had suffered the ravages of war, an opportunity to rehabilitate themselves within a reasonable time and to pay their prewar debts afterwards, and thus prevent them from being victimized in the interim by their prewar creditors. As the purpose had been achieved during the eight-year period, there was no more reason for the law.

[10] The **first tier** or the *rational relationship or rational basis test* mandates courts to uphold a classification if it bears a rational relationship to an accepted governmental end. In other words, it must be "*rationally related to a legitimate state interest.*" To be reasonable, such classification must be (1) based on substantial distinctions based on real differences; (2) germane to the purposes of the law; (3) not limited to existing conditions only; and (4) equally applicable to all members of the same class.

The **second tier** or the *strict scrutiny test* requires the Court to ask the government to show a compelling or overriding end to justify (1) the limitation on fundamental rights or (2) the implication of suspect classes. Where a statutory classification impinges upon a fundamental right or burdens a suspect class, such classification is subjected to strict scrutiny. It will be upheld only if it is shown to be "*suitably tailored to serve a compelling state interest.*"

Under the **third tier** or the *intensified means test*, the Court should accept the legislative end, but closely scrutinize its relationship to the classification made. In other words, such classifications must be "*substantially related to a sufficiently important governmental interest*."

[11] House Bill No. 123, seeking to exempt the rank-and-file employees of BSP from the Salary Standardization Law (SSL).

[12] PDIC was the first regulatory GFI whose rank-and-file employees were exempted from the SSL in 2004.

[13] The test is applicable to all legislative classifications in general**,** such as those that pertain to economic or social legislation, do not affect fundamental rights of suspect classes, or are not based on gender or illegitimacy.

[14] This test is applied to legislative classifications based on gender or illegitimacy.

[15] "Suspect" classifications include those made on the basis of race or national origin, alienage, and religion.

[16] In the United States, these fundamental rights that give rise to strict scrutiny include the right of procreation, the right to marry, the right to exercise First Amendment freedoms -- such as free speech, political expression, press, assembly, and so forth -- the right to travel, and the right to vote.

[17] Justice Morales explained thus:

> "In the case at bar, however, petitioner does not allege a comparable change in the factual *milieu* as regards the compensation, position classification and qualifications standards of the employees of the BSP (whether of the executive level or of the rank and file) since the enactment of The New Central Bank Act. Neither does the main opinion identify the relevant factual changes which may have occurred vis-à-vis the BSP personnel that may justify the application of the principle of relative constitutionality as above-discussed. Nor, to my knowledge, are there any relevant factual changes of which this Court may take judicial knowledge. Hence, it is difficult to see how relative constitutionality may be applied to the instant petition."

[18] Additionally, it was argued that the reliance by the main opinion on international conventions, as well as foreign and international jurisprudence, was even misplaced. Regarding instruments to which the Philippines is a party, not one explicitly prohibits discrimination on the basis of financial need.

[19] The aforementioned Section reads as follows:

SECTION 4. Coverage. - The Compensation and Position Classification System herein provided shall apply to all positions, appointive or elective, on full or part-time basis, now existing or hereafter created in the government, *including government-owned or -controlled corporations and government financial institutions*."