The definition of taxes and the distinction between fees and taxes used herein are obtained from Revenue Statistics of OECD Member Countries (1965-1994) at Pg. 27 to 30. The definitions found therein have been agreed to by the OECD, International Monetary Fund and the United Nations System of National Accounts (SNA). In the OECD classification, the term "taxes" is confined to compulsory, unrequited payments to general government. Taxes are unrequited in the sense that benefits provided by government to taxpayers are not normally in proportion to their payments. Furthermore according to the OECD, apart from vehicle license fees, which are universally regarded as taxes, it is not easy to distinguish between those fees and user charges which are to be treated as taxes and those which are not, since, whilst a fee or charge is levied in connection with a specific service or activity, the strength of the link between the fee and the service provided may vary considerably, as may the relation between the amount of levy and the cost of providing the service. The OECD argues that where the recipient of a service pays a fee clearly related to the cost of providing the service, the levy may be regarded as requited and under the definition of taxes above would not be considered as a tax. In the following cases, however, a levy could be considered as "unrequited" under OECD:

a) Where the charge greatly exceeds the cost of providing the service;
b) Where the payer of the levy is not the receiver of the benefit (e.g., a fee collected from slaughterhouses to finance a service which is provided to farmers);
c) Where the government is not providing a specific service in return for the levy which it receives even though a licence may be issued to the payer (e.g., where the government grants a hunting, fishing or shooting licence which is not accompanies by the right to use a specific area of government land);
d) Where benefits are received only by those paying the levy but the benefits received by each individual are not necessary in proportion to his payments (e.g., a milk marketing levy paid by dairy farmers and used to promote the consumption of milk).

In addition to the above requirements, other consideration were put forth in National Federation of Independent Business v. Sebelius, 567 U.S. 519 (2012). The US Supreme court found that the Affordable Health Care Act penalty was a tax because:

a) Payment went to the U.S Treasury when taxpayers filed their tax returns;
b) The amount of the penalty was determined by factors such as the individual's taxable income, number of dependents, and joint filing status;
c) The penalty was found in the IRS Code and enforced by the IRS and in the same manner as taxes are collected; and
d) The penalty produced some revenue for the government

Considering the above criteria, NSSF contributions are most likely not a tax since they benefit the contributor directly, do not raise revenue for the state and the beneficiaries have a legal claim to a benefit proportionate to their contribution. The contributors have a proprietary interest in the contributions. The proposed National Health Insurance Scheme on the other hand is less straight

forward than NSSF contributions. The member's contribution is meant as a premium and it is set dependent on actuarial determination. It does not raise revenue for the state, it is not collected by the Uganda Revenue Authority and the state has a legal mandate to make contributions for the indigent nationals. On the surface it has the hallmarks of a statutory levy but the final version of the bill that was passed by Parliament may vary from the publicly available draft. If its essential characteristic remain as reported, it seems less of a tax. For purposes of this Article we shall treat it as a tax.

Do taxes need to be fair and equitable?

Taxes are governed by different principles which include fairness, flexibility, efficiency, equity and certainty. In respect of equity the OECD states that:

> *Equity is also an important consideration within a tax policy framework. Equity has two main elements; horizontal equity and vertical equity. Horizontal equity suggests that taxpayers in similar circumstances should bear a similar tax burden. Vertical equity is a normative concept, whose definition can differ from one user to another. According to some, it suggests that taxpayers in better circumstances should bear a larger part of the tax burden as a proportion of their income. In practice, the interpretation of vertical equity depends on the extent to which countries want to diminish income variation and whether it should be applied to income earned in a specific period or to lifetime income*
>
> OECD, Addressing the Challenges of Digital Economy, 2014

In many states, in principle taxes should be both fair and equitable and on the surface they are usually tailored to be progressive such that those with higher incomes bear a higher tax burden. However certain taxes though neutral on the surface impose a disproportionate burden on the poor because they are not progressive. These include exercise duties, value added tax and similar taxes imposed on goods and service. The unequal effects of taxes especially persons within the same income bracket pose challenges of equal protection of the law.

Constitutional implications of Taxation

Parliament can impose taxes under Article 152 (1) of the Constitution of Uganda. This Article provides that:-"No tax shall be imposed except under the authority of an Act of parliament. The only limitations imposed on Parliament's taxation power are those imposed by Individual rights protected by the Constitution. Article 152 must be read together with Article 26, 28 and 20 of the Constitution as required under Supreme Court precedents (Tinyenfuza v Attorney Genral, Sharon Dimanashe v Makerere University and AG). As Lord Hoffmann famously observed in *Ex parte Simms*: *[T]he principle of legality means that Parliament must squarely confront what it is doing and accept the political cost. Fundamental rights cannot be overridden by general or ambiguous*

words. This is because there is too great a risk that the full implications of their unqualified meaning may have passed unnoticed in the democratic process. In the absence of express language or necessary implication to the contrary, the courts therefore presume that even the most general words were intended to be subject to the basic rights of the individual.

For example taxation statutes must be clear and unambiguous as explained by Lord Russel of Killowen in *Inland Revenue Commissioner vs. Duke of West minister*:-

> *"The subject is not taxable by inference or by analogy, but only by the plain words of a statute applicable to the facts and circumstances of his case".*

In simple terms, only Parliament can impose taxes but it can only do so in express and clear terms. In Partington v Attorney General*, the* House of Lords stated that:-*"As I understand the principle of all fiscal legislation it is this: if the person sought to be taxed, comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of the law the case might otherwise appear to be."*

Therefore, given the broad width of the taxing powers, courts require that tax statutes not only be clear and unambiguous but also that they are imposed on the background of the principle of legality. Furthermore, a cardinal principle of the interpretation of taxing statutes is that when words of a statute are clear and unambiguous, they should be given their plain meaning and that Courts should not read into the Sections of a taxing statute words that are not there so as to meet the minds of the legislators.

The power to tax is very wide and due to the separation of power, courts are hesitant to interfere with the exercise of this power by the legislature. Provided that the tax is imposed by statute and it imposes reasonable limit on Individual rights, it will be upheld by courts. According to Chief Justice Roberts:

> *Proper respect for a co-ordinate branch of the government" requires that we strike down an Act of Congress only if "the lack of constitutional authority to pass [the] act in question is clearly demonstrated." United States v. Harris, 106 U. S. 629, 635 (1883). Members of this Court are vested with the authority to interpret the law; we possess neither the expertise nor the prerogative to make policy judgments. Those decisions are entrusted to our Nation's elected leaders, who can be thrown out of office if the people disagree with them. It is not our job to protect the people from the consequences of their political choices.* Chief Justice Roberts in Sellibius

Furthermore, court has held that Congress's authority under the taxing power is limited to requiring an individual to pay money into the Federal Treasury, no more. According to court, if a tax is properly paid, the Government has no power to compel or punish individuals subject to it. Justice Roberts added that: *"We do not make light of the severe burden that taxation, especially taxation motivated by a regulatory purposes can impose. But imposition of a tax nonetheless leaves an individual with a lawful choice to do or not do a certain act, so long as he is willing to pay a tax levied on that choice.*"

The power to tax is nevertheless subject to the restriction that it shall not be so exercised as to deny any one the equal protection of the law. However, this restriction does not compel the adoption of "an iron rule of equal taxation," nor prevent variety in methods of taxation, or discretion in the selection of subjects, or classification for purposes of taxation of either properties, businesses, trades, callings, or occupations. See Brown v Kentucky Page 217 U. S. 573

Discriminative intent is required to show violation of the equal protection clause where the law is neutral and not facially discriminative. Justice Lewis Powell, writing for the Court in Arlington, stated that, "Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause." Disparate impact merely has an evidentiary value; absent a "stark" pattern, "impact is not determinative. For example in ***Skinner v. State of Oklahoma, ex rel Williamson***, 316 U.S. 535 (1942) Oklahoma passed the Habitual Criminal Sterilization Act, which allowed the state to impose a sentence of as part of their judgment against individuals who had been convicted three or more times of crimes amounting to felonies involving moral turpitude. Exceptions to this ruling were those who committed what are considered white collar crimes. Court held unanimously that the Act violated the equal protection clause because white collar crimes such as embezzlement were excluded from the jurisdiction of the Law. As applied in this case equal protection requires that persons in the same category be treated the same way unless there is a compelling reason for the difference in treatment. For example, Parliament passed the Leadership Code Act, 2002 which requires certain public officers to declare their property. This law is facially discriminative but it lawful because it serves a legitimate state interest in preventing corruption and it does not unduly burden the rights of public officials. If this law didn't serve a legitimate state interest and was unduly burdensome to public officials, it would violate their right to equal protection of the law because other workers are not required to declare their property. Taxes are applied to different categorizations of goods, services and individuals. Equal protection of the law requires that if a categorization is made be it on the basis of the ingredients of a product or its nature or its peculiar characteristics then every product with the same characteristic must be treated the same unless there is a very compelling reason for the difference in treatment. For example if a tax is based on income levels and is imposed on corporate entities, all corporate entities within that income bracket must be taxed the same unless the state has a good reason for taxing some corporate entities differently. This is the basis and justification for taxing domestic companies differently from foreign companies.

Taxation and the right to property

Ordinarily the state can impose taxes as it pleases subject to the political process through which citizens hold their leaders accountable. The citizens are free to elect leaders that enact tax policies they agree with and political leaders must be willing to pay the price for high taxes at the ballot box. The judiciary will only intervene in limited circumstance where the state has imposed a tax. According to court in George Lesaloi Selelo & another v Commissioner General, KRA & 4 others; Pevans EA Limited (t/a Sportpesa) & 3 others [2019] eKLR, the imposition of tax by legislation that has been duly enacted, and the collection of such tax, cannot amount to infringement of the constitutional right to own and hold property, or any other constitutional right or freedom.

With due respect to the court in Lesaloi Selelo & another, it is also true that taxes are limitations to the right to own property and the prohibition against the state taking the property of citizens without adequate compensation. This position was acknowledged by court in Okiya Omtatah Okoiti v Commissioner General, Kenya Revenue Authority and 2 others as follows:

> *Tax inherently infringes the right to property, being an expropriation of one's hard-earned money. It follows that for the tax to be lawful, the law introducing it must not only be lawful but it must meet the Article 24 analysis test in that it must be reasonable and justifiable in a open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including the nature of the right or fundamental freedom; the importance of the purpose of the limitation; the nature and extent of the limitation; the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.*
>
> Okiya Omtatah Okoiti v Commissioner General, Kenya Revenue Authority and 2 others (2018) eKLR

The apparent contradictions between the positions taken by court in the two decisions reflect the difficulty courts face in balancing the rights of individuals and the political power to tax. This is complicated by the fact that the constitution does not directly place any limitations on the power to tax and the delicate separation of power between the three branches of government. It is further complicated by the fact that taxes are imposed by the two elected branches of government yet unelected judges are called upon to decide when a tax violates either the equal protection clause in Article 20 or the due process clause in Article 26 and 28. The issues for determination are:

a) Does the tax violate the equal protection of the law rights of the tax payers?

b) Is the tax so high that it constitutes an unconstitutional taking of property without adequate compensation?

The author is a proponent of a Corruption Adjustment tax of up to eighty percent of the property or Income of the individual but recognizes the equal protection and due process limitations on the power to tax. Jurisprudence on taking of property by the state when it is not in physical possession or without preventing physical possession limits it to situations where the actions of the state render the property rights of the property owner useless. Furthermore, historically income tax rates have from ranged from as low as zero to ninety. In the circumstance absent a reasonable state interest in such high tax rates, under court precedent, it is unlikely for a tax of ninety percent or below constituting an unconstitutional taking of property without adequate compensation. On the other hand, it is easier to succeed under equal protection of the law since court does not need to impugn the law but merely read it to apply to all those affected and even if it did impugn, it is less a controversial exercise of judicial power than determining the appropriate rate of Taxation. As explained by Chief Justice Roberts, the tax rate is a political decision subject to the political processes. However equal protection of the law is a legal issue easily solved by the judicial process.

National Social Security Fund (NSSF).

According to the OECD, compulsory social security contributions, paid to general government are treated as tax revenues. It argues that being compulsory payments to general government they clearly resemble taxes. They may, however, differ from taxes in that the receipt of social security benefits depends, in most countries, upon appropriate contributions having been made, although the size of the benefits is not necessarily related to the amount of the contributions. Given our analysis and the inconclusiveness of the OECD guidance, it is our view that NSSF contributions are more of a statutory levy than a tax especially because the beneficiaries have a proprietary interest in the contributions. Since NSSF contributions are not a tax, they are easier to challenge in court than taxes. In any case the URBRA imposes a fiduciary duty on NSSF. This duty provides more options for judicial review than taxes.

National Health Insurance Bill 2019

As originally structured, the bill imposes a levy of four Percent on the income of the employees and mandates a 4 percent contribution by the employer. The bill provides that those in informal employment shall contribute UGX 100,000 per year and that the state will make contributions on behalf of the indigent. The final bill may or may not reduce the contributions of the employer and employees to 1 percent. Clearly the levy or tax as the case might be is imposed on the basis of income for employees and a fixed fee foe none employees. Therefore, if I am self-employed and earning UGX 1,000,000 per month, I am required to pay UGX 100,000 per year. However, an employee earning 1,000,000 per month, will pay UGX 40,000 per month and his or her employer will pay UGX 40,000 for him or her. In the circumstance an employee will pay UGX 80,000 per month or 960k per year whereas a freelancer earning the same or even as an employee will pay

UGX 100,000 per year. It is doubtful that such unfair and clearly arbitrary treatment meets the equal protection of the law requirements in the Constitution of Uganda. However given the state of the judiciary in Uganda especially the Constitution Court and the Supreme Court, such an outcome might be lost in translation. Clearly the state has categorized citizens into those in formal employment and those not in formal employment and decided to treat them differently without legitimate purpose. Maybe the state theorized that it cannot readily predict or establish how much those in informal employment make and decided to impose a fixed fee and imposed a percentage levy on workers because it can compel employers to deduct the levy at the payroll. Whatever the difficulties in establishing the income levels of those in self-employment, it does not justify the unequal treatment especially given the fact that there is a less restrictive means of collecting the levy by simply requiring all citizens except indigent ones to pay a fixed fee to the National Health Insurance Scheme.

Obviously establishing a health insurance system is a lawful exercise of legislative powers of parliament and it can lawfully require citizens to contribute to the scheme. Parliament can even decree that different groups or categories of people contribute differing contributions. However, Parliament cannot decree that individuals in the same category make differing contributions unless the difference in treatment:

a) Serves a legitimate state purpose:

b) It is a reasonable limit to the right of individuals:

c) Is the least burdensome means of achieving the desired state interest

d) Imposes minimum burden on the rights of individuals.

Clearly, the discrimination between workers and the self-employed does not serve any legitimate state interest because how does discriminating against workers aid the state. Yes the levy will raise revenue but this would remain the same whether the discrimination existed or not. If the state required everyone to pay a specified fee or a percentage of their income regardless of the nature of their work, the state would still get the desired revenue from workers. However, this would be a less restrictive means of collecting the revenue since it would not discriminate against workers. Given the lack of information on the income of those not in formal employment, it would be difficult to impose a percentage levy on them. The state cannot use this as an excuse to discriminate workers because the onus is on it to ensure compliance. The state could actually simply quantify and specify a fixed contribution for every one and exempt those that are indigent.

Assuming that the state imposes a four percent levy on the income of all citizens. Clearly it can more easily collect the levy from workers by requiring employers to deduct it but it would face challenges ensuring compliance from freelancers and those who are self-employed. The law would be neutral on the surface but discriminatory in effect. The state realized this outcome and decided

to go for the discriminative approach because it forces employees to pay a higher contribution while ensuring that those in informal employment also make a specified contribution. Imposing a uniform percentage levy would have run into problems of under declaration by those in informal employment since the government has no cost effective means of ensuring that individuals declare actual figures. For example, a freelancer who earns UGX 40,000,000 in a specific month can claim zero income and dodge making a contribution. Since the government is aware of this unequal treatment in application of the percent levy, it is still discriminative to impose a uniform percentage levy on both workers and those in informal employment. In any case, the current unequal treatment of workers and professionals as structured in the NHIS Bill also violates the Constitutional requirement of equal protection of the law.

Unconstitutional taking of workers property by the National Health Insurance Bill

The bill creates a Nation Health Insurance Scheme funded by contributions from workers and other individuals who are self-employed. The bill passed by parliament purports to save community insurance schemes but does not clarify whether contributors insured under these schemes will still contribute to the National Scheme. The bill does not address the fate of private health insurance companies such as IAA and others nor does it provide funding to compensate workers who will lose employer funded medical insurance benefits as a result of the law. The bill by mandating that employees contribute to the scheme, takes over their health insurance benefits that accrued under the employment contracts of workers. Article 26 of the Constitution forbids the state from taking over the property of individuals without adequate compensation. The Supreme Court of Uganda has ruled that the state must pay the compensation before taking over the property. See, Uganda National Roads Authority v Irumba & Anor, SC Constitutional Appeal, No. 2 of 2014.

The courts in Uganda have not addressed the constitutionality of laws that burden the use of property rather than amounting to a physical use or possession of the property of an individual by the state. For example, Can KCCA deny planning permission to all unregistered land owners thus rending their land unusable without violating the law? Furthermore, can government outlaw the growing of maize by Ugandans without violating the right to property and the prohibition against state taking of property without adequate compensation? In the US, Current law distinguishes between per se takings, which involve unusually severe intrusions on private property and are treated with particular skepticism by courts, and milder intrusions on property rights that fall under the broader umbrella of “regulatory” takings. Under existing precedents, a law doesn’t count as a per se taking unless it deprives a property owner of “all economically beneficial or productive use” of their property, or subjects the property owner to a “permanent physical occupation” of their property. Court precedent emphasizes that a taking may more readily be found in circumstances where the interference with property can be characterized as a physical invasion by government, than when interference arises from some public program adjusting the benefits and burdens of economic life to promote the common good."

However, court has often upheld substantial regulation of an owner's use of his own property where it is deemed necessary to promote the public interest. The functional basis for permitting the government, by regulation, to affect property values without compensation is that "Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law," Government regulation by definition involves the adjustment of rights for the public good. Often this adjustment curtails some potential for negative implication for the use or economic exploitation of private property. To require compensation in all such circumstances would effectively compel the government to regulate by purchase. "Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law." Pennsylvania Coal Co. v. Mahon, 260 U. S. 393, 413 (1922). However, court precedent is clear that this does not apply to the relatively rare situations where the government has deprived a landowner of all economically beneficial uses.

In Andrus v. Allard, 444, artifact owner possessed artifacts composed of feathers of currently protected birds, but the artifacts existed before the statutory protections of the Eagle Protection Act (Eagle Act), came into force. The appellee was prosecuted for violations of the Eagle Act and the appellee brought suit and alleged that the statutes did not forbid the sale of appellee's artifacts insofar as the constituent birds' parts were obtained prior to the effective dates of the statutes. The district court agreed. The Supreme Court held that:

> *The regulations challenged here do not compel the surrender of the artifacts, and there is no physical invasion or restraint upon them. Rather, a significant restriction has been imposed on one means of disposing of the artifacts. But the denial of one traditional property right does not always amount to a taking. At least where an owner possesses a full "bundle" of property rights, the destruction of one "strand" of the bundle is not a taking, because the aggregate must be viewed in its entirety. We hold that the simple prohibition of the sale of lawfully acquired property in this case does not effect a taking in violation of the Fifth Amendment. Andrus v. Allard, 444*

Given that Parliament can impose substantial regulation of an owner's use of his own property where deemed necessary to promote the public interest and it can lawfully affect property values without compensation for every such change in the general law, it means that not every restriction to the property rights constitutes a taking under Article 26(2). The Supreme Court of Uganda was clear in Dimanche Sharon and 2 Others v Makerere University, Supreme Court Constitutional Appeal No. 2 of 2004 that parliament may impose such limits on the enjoyment of constitutional rights as a reasonably necessary to protect the public interest provided that they are narrowly tailored and do not unduly burden the enjoyment of individual rights. The issue for determination then becomes whether:

a) Does the owner possess a full "bundle" of property rights in an Insurance policy;

b) Were a substantial number of the property rights of the owner of an insurance policy destroyed by state action;
c) Did the state action deprive the property owner of all economically beneficial uses?

An insurance policy can cover multitudes of situations and indemnify the insured in the event of loss. For example an insurance policy might cover fire, motor accidents, legal liability and other risks but also an insurance policy might be taken out to cover only one risk. The Health insurance policies are one example of a policy that covers the insured in the event of illness. The cover has no other use to the insured rather than covering his or her medical expenses in the event of sickness. The policy serves no other purposes such as decorative or other use. It cannot be said to include a bundle of property rights for the insured. In the circumstances if Andrus v. Allard, applies, then the only property right connected to the Insurance policy was destroyed by state regulation. The state action deprived the property owner of all economically beneficial uses of the insurance policy. There is no reason to believe that employers would not have continued to cover the insurance of the employees but for the state action. The national Health Insurance Scheme forces employers to make a contribution to it and the employees to do the same thereby rendering the existing insurance policies useless. An employer who would otherwise paid the premiums for the employee is given the option to make a contribution thus nullifying the benefit that employees were otherwise entitled to but for the state action.

If we consider that the property rights lie in the premiums that the employer paid on behalf of the employee, the decision in Andrus v. Allard might not render the state action a taking under Article 26(2). In some instances, 1% of the employee's remuneration that an employer is mandated to contribute under NIHS may exceed the premiums currently being paid by employers under existing policies. In certain insistences it will be less than the premiums but under Andrus v. Allard as long as some benefit can still be enjoyed in spite of state restriction, then there is no taking by the state.

Can the state force you to buy what you do not want?

The state's power to impose taxes is broad and the state usually wields it to promote conduct that it desires including industries that it wants to promote. By setting lower taxes on certain goods the state is essentially encouraging consumption of those goods and discouraging consumption of goods that are highly taxed. The question that is yet to be conclusively answered is whether the state can compel you to buy a product you do not want or engage in any activity you do not want. In respect of public health measures the state may compel individuals to take certain measures such as vaccination or take preventative measures but can it compel you to buy a certain drug outside the state of an emergency. Courts have distinctly recognized the authority of a State to enact quarantine laws and "health laws of every description;" indeed, all laws that relate to matters completely within its territory and which do not, by their necessary operation, affect the people of other States. According to settled principles, the police power of a State must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety (Gibbons v. Ogden, 9 Wheat. 1, 22 U. S. 20). However, In

National Federation of Independent Business v. Sebelius, 567 U.S. 519 Court ruled that the federal government had no permission to force individuals not engaged in commercial activities to buy services they did not want but can impose a tax for not engaging in certain activities. According to Chief Justice Roberts:

> *"…it is abundantly clear the Constitution does not guarantee that individuals may avoid taxation through inactivity. A capitation, after all, is a tax that everyone must pay simply for existing, and capitations are expressly contemplated by the Constitution. The Court today holds that our Constitution protects us from federal regulation under the Commerce Clause so long as we abstain from the regulated activity. But from its creation, the Constitution has made no such promise with respect to taxes.*

If the state can compel a citizen by penalty of law engage in certain conduct such as buying pork or build a house then what stops it from decreeing that we should all engage in gainful employment or walk bare footed. In Jacobson v. Massachusetts, 197 U.S. 11 (1905) at pg. 27 "The possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community. Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the same right by others. It is then liberty regulated by law."

In protecting public health and national defense, the power of the state to compel conduct is very broad. According to Court, rights secured by the Fourteenth Amendment, consists, in part, in the right of a person "to live and work where he will," and yet a person may be compelled, by force if need be, against his or her will and without regard to his or her personal wishes or his or her pecuniary interests, or even his or her religious or political convictions, to take his or her place in the ranks of the army of his country and risk the chance of being shot down in its defense. In peace time and in ordinary circumstances, the power of the state to compel conduct is limited than during times of war and crisis. For example during an emergency, the state may compel production of certain goods and even nationalize industries. Cases regarding regulations to respond to health crisis or national defense are not applicable where no such emergency or crisis exists.

In conclusion, it is doubtful that outside a health crisis or in national defense during war that the state can compel an individual to buy something he or she does not need except through taxation of those that do not buy the product. The state cannot require that everyone must buy milk or eat cassava or walk on foot except in exceptional circumstances to protect the public or in national defense.