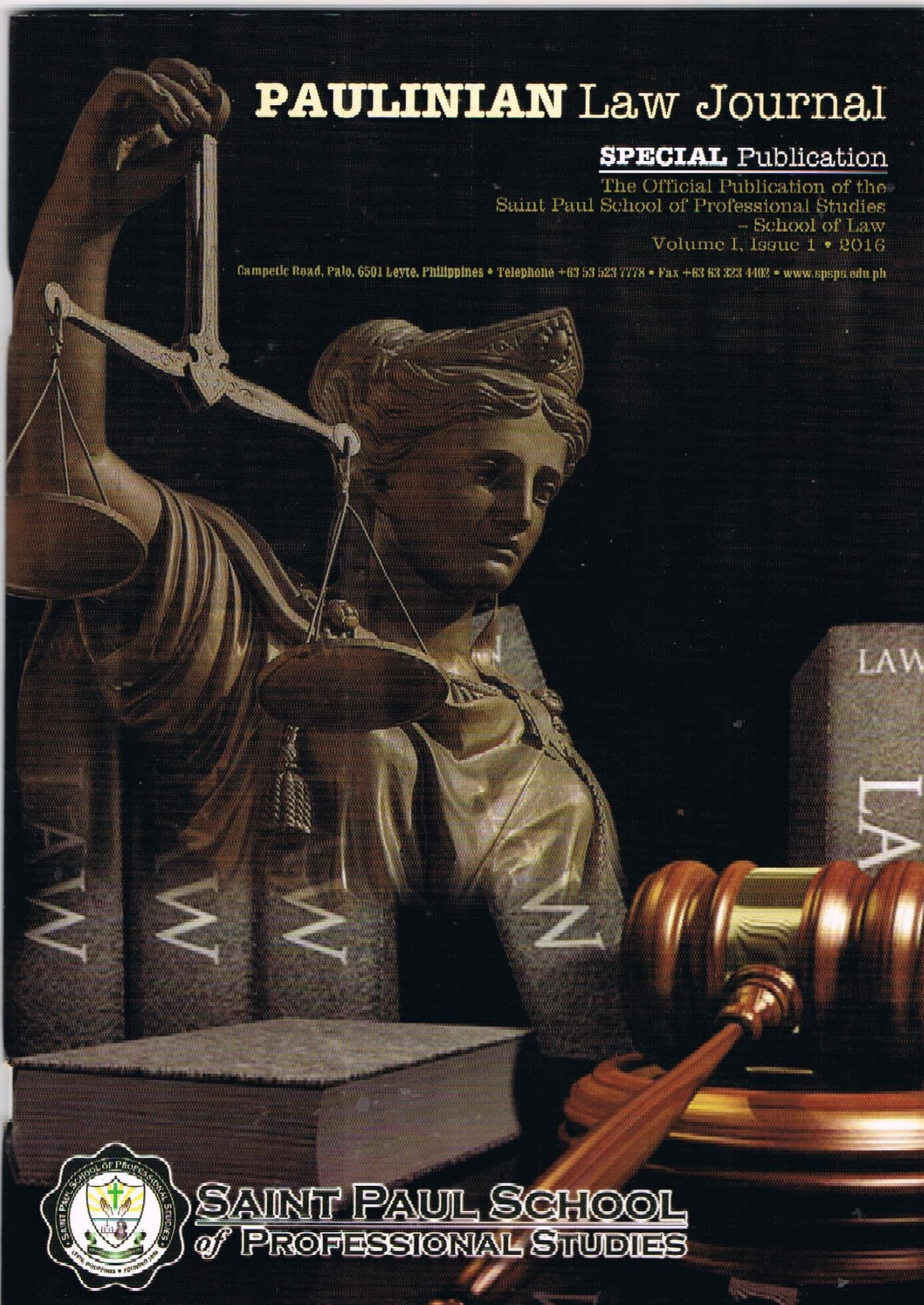




PAULINIAN Law Journal

SPECIAL Publication

The Official Publication of the
Saint Paul School of Professional Studies
- School of Law
Volume I, Issue 1 • 2016

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of **PROFESSIONAL STUDIES**



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**Saint Paul School of Professional Studies
SCHOOL OF LAW**

Campetio, Palo, Leyte

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Foreword

Where do all these proposals to rectify national and global justice lead us? They lead us to the true notion of solidarity, which is appreciated in the parlance of what is legally controlling and commendable. Genuine solidarity is "unity of independent, spiritual, and individual single persons 'in' an independent, spiritual, and individual collective person."¹ In genuine solidarity, every finite person is at the same time a member of a global person seeking for justice. In genuine solidarity, everyone is responsible for oneself through legal measure and moral demands. What makes it possible is the mutual reciprocity and reciprocal valueness of all moral and social acts through justifiable enforcement. Needless to say, solidarity presupposes justice and genuine solidarity in the societal realm assumes a human face.

This is even evident to the incessant change in legislation and jurisprudence, which is primarily our ultimate yardstick to development as a society. The law with all its obligatory force is not, after all, immune to repeal, revision or amendment. Day to day events help shape what laws are enacted and what jurisprudence are promulgated by the proper authorities. It is therefore safe to say that the law dances with the flow of our lives as Filipinos. What we may consider as doctrinal today may become a complete heresy tomorrow. It is imperative that as disciples of the law, we must not be left behind or else we end up chasing the moon and the stars. An open mind and a humble attitude to claim that we do not know everything is our weapon in the kind of life we choose – *a life disciplined of the law*. This peculiar path we took is characterized by continuous learning and yearning to learn more.

This is the very reason that gave birth to the special edition of the Saint Paul School of Professional Studies Journal. The Lex Journal Publication holds its

¹ Max Scheler, op. cit., p. 246

² *SB. L. J.*

conviction in the wisdom of Socrates which speaks that, "The unexamined life is not worth living. The unexamined thought is not worth having." The future lawyers today need to be the leading advocates of the primacy of the rational discourse and legal dialogue in all human affairs and actions, thus advancing his view about man as being of meaning and language. It is their sacred task and duty to endeavor to transform the liberal public sphere into a forum of critical public discussion on matters of general legal atmosphere. There is never an excuse for the students of law to shun themselves away from participating actively in the concrete issues of the times, putting their reputation as soldiers of law in line with the discourse of ordinary people in everyday life.

With this, I believe that we have created a convenient venue where legal minds can best express their doubts, hopes, aspirations and expertise in whatever legal matters the society is facing today. This is the promise of the Saint Paul School of Professional Studies Lex Journal Publication which for the first time will become part of the Paulinian Law Tradition. If this journal arouses the law students, lawyers, professors of law and law practitioners to reflect on society with its legal implications, to become socially aware and socially involved, then it will have served its purpose.

Special thanks to Pres. Erwin Vincent G. Alcala, CPA, MIB, Dean Atty. Raymund S. Gallardo, CPA, Blanos Atty. Leo S. Giron, Atty. Adryan S. Mauro, A. B. and Atty. Francis A. Jadulco, A. B., Atty. Rafael M. Iriarte, Ph. D., Reynaldo B. Garnace, D.A., Mrs. Fidencia P. Oral, Ms. Marcelina V. Aroza, Mrs. Ofelia B. Naga, Ma. Ed. and Ms. Sabrina Ann C. De La Cruz for making all of these possible through their invaluable support and pieces of advice. I likewise extend my sincerest gratitude to our contributors for sharing with us their thoughts which are all worthy of publication.

Sonny S. Lukban

Executive Editor

Lex Journal Publication 2016 – 2017

Preface

It is noteworthy that Saint Paul School of Professional Studies School of Law has finally released its initial publication of some of our students' law articles. This publication has been in the making for some time now, but the long wait is finally over. This publication is but a prelude to our bigger project, the regular release of a Law Journal, that will gather articles contributed by members of our law school community who like to share their insights, dissertations, legal researches and perhaps their own take and opinion on some current, controversial or important legal matters.

As they say, we lawyers love to write: Franz Kafka, the noted German novelist, wrote: A lawyer is a person who writes a 10,000-word document and calls it a "brief" but all written words are not useful until they are read, and understood and are able to touch a person's mind and heart.

This humble publication also hopes to inspire our students to hone their writing potentials and share their thoughts and ideas with a wider audience.

I wish everyone will enjoy the articles in this issue, and I encourage all of you to submit your articles for future publication.

Atty. Raymund S. Gallardo, CPA
Dean, School of Law

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History of the Judicial System of the Philippines

By: Atty. Rafael M. Iriarte, Ph. D.¹

CHAPTER I

In order to understand fully the early judicial system prior to 1565, we should look at the early history of the Philippines even its pre – history. Those who would want to know our country can glimpse into its history, learn the folklore, the opinions, beliefs, longings, usages, tradition, idiosyncrasies, arts, costumes, superstitions, language, culture and civilization. Scholars reckon to the earliest in the islands to be the dawn men who lived 250,000 ago. They were massively built thickly haired. They came to the country by land bridges before the glacial epoch. Together with pre – historic mammals the dawn men roamed until they disappeared altogether. Only archeological findings around Laguna de Bay in Luzon attest to this early settlers. The glacial and interglacial periods which melted the glacial caps of the North Pole covered low land which is now the Philippines were separated from the rest Asia and also divided the once big mass into islands. Much of the lands from Africa to India and Ceylon and as far as the Philippines and Australia were inhabited by dard skinned race with varying height. In Central and South Africa, they were tall as much as six feet, in India, Ceylon and Australia they were shorter. In Australia they were called the Bushmen by the English who came to colonize their country. In the Philippines they were very short to as much as below 3 feet and were known as pygmies. The pygmy culture was centered on bow and arrow, sump tan or blowgun and stone implements. The African black were more characterized by spears while the bushmen in Australia were more adept on the boomerang, a curved hard wood that when thrown to hit a target returns to the subject. The pygmies roamed 25,000 years to 30, 000 years ago. The next to settle the country were the Indonesians as early as 5,000 about 200 BC to 1,500 A.D. The Bosnians were in the Manila in 1572. The origin and nature of man are revealed in the scriptures. But the great theological understandings were not set in their proper perspectives. The Hebrew Christian theory was dominated by four errors, infra:

1. That man was created by the special act of God;
2. That there is no linkage between him and animal kingdom;
3. That man's presence on earth is a fixed center, and
4. That man, certain peoples are the elect of the deity and therefore superiors to the others.

¹ The Author is currently the Dean of Real States Management of Saint Paul School of Professional Studies and is handling the foundations of Criminal Law 1 and 2 in SPSPS Law School. The 1st of the 4th Series of his manuscripts on the History of the Judicial System of the Philippines tackles the Indigenous Era Prior to 1565. This is an unpublished work submitted as entry to the Centennial Essay – Writing Contest sponsored by the National Centennial Commission and the Supreme Court in 1997, p. 103, citing *Perfecto V. Fernandez*, Custom Laws in Pre – Conquest Philippines, UP Law Center, p.10 (1976). A portion of this essay was quoted by Supreme Court Justice Reynato S. Puno in the SCRA G.R. No.1358 Cruz vs. Sec. of Environment.

The first two errors were destroyed by the theory of evolution of Charles Robert Darwin of England and the theory of the Cell by Theodore Schwann of Neuss, Germany (1810 – 1882). The third is untenable by astronomy and the fourth dogma by anthropology. The doctrine of Count Arthur de Gobineau of France (1816 – 1882) in essence was; “Men are many, civilization is one”, meaning that the mental qualities and capacities of the races are not only different but immutable, and that one race alone – the white race (he claimed that Nordic Aryan of Germany were its present predecessor) has produced a true civilization. He stressed his thought that the human race is not unit but categories of ethnic groups intellectually unequal. This doctrine of Gobineau was upset by the theory of Franz Boaz (the Theory of Man: Franz Boaz 1859) of Germany and who has shown that just the opposite was true: man is one, civilization are many. When civilization is examined scientifically and dispassionately, no claim can be made that the culture of the white race is point by point superior to all others. It was not only Gobineau and others who were mistaken by their race mysticism. The list includes Friedrich Nietzsche, the Puritans of the Massachusetts Bay Colony, Cecil Rhodes, Houston Stewart Chamberlain, Ludwig Weltmann (1871 – 1907) Otto Hauser, Hans Gunther, the Italian Giuseppe Sergi (1841). Sergi is the anthropologist who thought that the blonde Nordics are bleached Negroes who came out of Africa. Aristotle, who declared that the Greeks were superior race fitted by nature to rule the world, and the French Jean Bodin. Anthropology, the youngest of all sciences, has made strides in explaining how man acquired different physical features men of all existing races belong to one and the same grouping. There exist many striking differences but despite of those differences fertile interbreeding is possible between all members. Four widely separated individuals – a German blonde and African pygmy, an American Indian, a Chinese: they are mutually fertile. Professor Lynn has compared the scores of Americans and Japanese in the mainly non-verbal parts of three Wechsler intelligence quotient test of American origin which had been standardized for use in Japan. Averaging the results of the three tests, covering various ages, Professor Lynn arrives at an “Overall Japanese mean IQ of 106.6. The United States average score is 72.7.

Aside from genetic factor other explanation for a high IQ is: better care for babies or child rearing, health, newspaper reading, nutrition and calorie consumption, environment like superior schooling, higher income and general better provision of that money can buy.

In the realm of psychology, Professor Richard Lynn of the University of Ulster, Londonderry, recently came out after a study that Japanese as a nation are more intelligent than the Americans. He concludes that the possible reason for the difference in intelligence is genetics – that some races or people are inherently brainier than others.

But scholars have grouped men according to their physical features, culture and civilization. The Indo-European or Aryan group of people roamed on the north of the Black and Caspian Sea, the Semitic people, said to have descended from the Biblical Truth. Those belonging also to the Caucasian or White Race lived in the Arabian deserts and southern coast of the Mediterranean Sea.

The Mongolian or yellow race lived and settled near the city now called Peking or Beijing. This race is probably the mother branch of the Malay or brown race with the admixtures of the Indonesian, due to search of food and good climate elsewhere, the Malays moved downward to the Malay Peninsula, other crossed the Strait of Malacca and spread to the east Indies, while the rest ventures to the Pacific Islands using their swift bancas and "paros" (sailboats).

The Malays and Chinese have some differences in physical appearances like the eyes. The colors of their skin are yellow and brown, respectively. But they have much in common like, the size of the skull, high cheek bones, concave nose, black hair and black eyes and medium in height.

The red Indians are classified under Mongolian. The black race whose forerunners are the Bushmen, Hottentots, Sudamese and American Negroes are classified in another group.

Language

Once should not confuse the terms language, race, nation and state or country with each other. The language of a state or country may be one or many as the case of the state of Switzerland having the German and French language, both belonging to the mother language of Indo – European or Aryan tongue. A language may also be spoken of by many countries like the English language spoken by the Australians, Canadians, Americans and Zealanders. The word "race" should not be used to mean or to describe a language or nationality because it would be incorrect and is without meaning. For example, there can be no Aryan race as what the adherents of Gobineau like Hitler think of, no Indo – European race because it is the mother language of mostly all European tongue and there can be no Semitic also belongs to the Caucasian or white race.

Language belonging to larger families can be grouped into Indo – European, Semitic, Hamitic, Finno – Ugric, Turkic, Chuhchacan, Altatic which the Japanese and Korean can be under, Caucasian, Dravidian, Munda of which the Burmese and Cambodian can be under, Andamese, Sino – Tibetan of which belongs the Chinese, Thai, Laosian and Vietnamese, Mal – Polynesian, Mayan, American, Indian, Bantu, Hottentots and Bushmen.

The Indo – European is divided into Balto-Slavonic (Bohemian, Bulgarian, Croatian, Lettish, Litanian, Polish, Serbian and Russian); the Teutonic Languages (Anglo – Saxon, Dutch, German and the Scandinavian language); the Roman languages and Greece – Latin, French, Italian, Portuguese, Spanish, Greeks, together with Provincial, Catalan, Romanian; the Celtic language (Bretonic, Erse, Manx, Welch, the Calic of Scotland, Devon Cornwall and Ireland.) Sanskrit of India – Northwest of India.

The Malayo – Polynesian is spoken by the people of the East Indies (Indonesia

and Malaysia) Including the Philippines and the Pacific Islands. The Dravidian, spoken by the inhabitants of Southern India and Ceylon, they were the people pushed down by the migration of the sturdier and skinned people, the Aryans of the North.

The Chinese is spoken by more than one billion Chinese of mainland China and overseas Chinese, while the Japanese by the inhabitants of the island nation Japan.

In the Philippines, there are seven major languages namely the Tagalog, Ilocano, Bicolano, Cebuno, Ilongo, Leyte – Samar Visayan and Pampango. But there are more than fifty other dialects spoken by several minorities. All fifty other dialects are spoken by several minorities. All these languages belong to the Malay – Polynesian language. To trace the people of the Philippines and its culture and civilization, we must first go back to the unrecorded past unveiled to us only through the artifacts and tools used by them which have not decayed for thousands of years.

Historians and scholars made divisions to describe the first inhabitants of the Philippines. After the dawn men were the Aetas or the dwarf black skinned people mentioned by the Spaniards who came to colonize the island as the Negritos or small black people. They are sometimes known as the pygmies. At present they have become extinct in Leyte and other island but they can still be found in the jungles of other islands of the Philippines. They usually are short less than 5 feet in height and live by hunting and fishing and from root crops.

Important Features of the Past

Ages are divided into: Old Stone Age 50,000 years ago; New Stone Age 10,000 years ago; Copper Age 4,000 years ago; Bronze Age 3,000 years ago; Iron Age 1,300 B.C

But before these people, modern science tells us that Java man roamed Java some 500,000 years ago, later the Peking man, Neanderthal man (100 – 50,000), the Heidelberg man and the Cro – Magnon Man Lived 50,000 years ago during the Old Stone Age or Paleolithic Era.

The Indonesians, who were found to inhabit all the parts of the Malay Peninsula and Indo – China reached the Philippines by the pressure of more civilize race, the Mongoloid people who came from the north of Indo – China. The Indonesians were tall, slim in the stature and dark browned skinned. They were taller than Mongolians. Some remained and intermarried with the Mongolians, the result of which is probably the Malays, who became lighter in complexion and shorter than the Indonesians but the feature of their eyes differ from the Mongolians who have oblique eyes while the Malay's show a more round and deeper set of eyes. What has remained in them is the high cheek bone and round concave nose. The Dravidians or the aborigines of the India have the same physical features as the Indonesians but were quite different from the Black African.

During the great Malay migration from the South of China, these warlike Malays settled the coast of the China soon reached as far as Korean and Japan. In Japan, they drove the aborigines known today as Ainu who have reached the island of Hunshu from Yezu. The origin of Japan and Korean started from those Malay immigrants with the blend of Chinese civilization.

In China, the Mongolians (3,000 B.C.) who occupied the central plains of China moved to the coast of the Pacific because of climatic changes and to find food. They displaced the earlier people found in the coast and river deltas. The Chinese state was thus formed. Some of the earlier people intermarried the newcomers while others retreated to Korea and Japan bringing with them the Chinese civilization.

The pre – Spanish civilization in the Philippines came from India. While the 2,500 B.C. Aryan invaders from the Caucasus plains near the Caspian and black seas were pouring down to the subcontinent of India, the southern portion of the continent were starting to build also a state. This portion was not invaded by the powerful empire of the Azoka which was the result of the Aryan invasion.

The southern tip of India had a culture akin to the Phoenicians and Arabians. This grew into an empire known as the Pallava (1,000 B.C. to 400 B.C). The Pallava Empire established colonies and settlements in the East Indies, the islands known to the Europeans as the Spice Islands and now covered by the country, Indonesia. Later, the colonies grew bigger and bigger, then grew to an empire, the Sri – Visayan Empire (400 B.C.) with capital in central Sumatra, a big island across the strait of Mallaca.

With the fall of the Buddhist Empire of the Sri – Visayan, its rival emerging state on its neighbor island Java, also a colony during the height of the Pallava but gained independence then resisted the Sri – Visayan conqueror and later replaced the weakened Buddhist Sri – Visayan Empire. The new empire was a Brahman State known as the empire of Majapahit (1300 A.D.).

KABULAIKHAN (1260 – 1294)

When the Mongol King seated himself at the throne of the Chinese empire by conquest, his ambassadors to the Empire of Madjapahit were insulted by the court of the Brahman King.

Kublai Khan sent punitive expedition to the Madjapahit capital in Java but returned without accomplishing its mission.

The first actual mention of the Philippines seems to date during the 10th century (972), certain people coming from Mai, now the island of indoor, in the Philippines, brought valuable merchandise to Canton China. From the 12th to the 15th century account of Sulu and Mai became frequent.

The colony of Brunei in Borneo Island, also a product of the Pallava, Sri – Visayan Madjapahit empires, is more known because of the preservation of certain manuscript. There is a myth in the Philippines about the Nine Datus of Panay. Nine Datus (Chieftains) from the court of Brunei set sail to the Panay Island in the Philippines together with their wives and slaves (alipin). They were forced to leave because of the enmity of the ruling King (Rajah or Raja) When they arrived, the island was already occupied by the people we mentioned earlier the Indonesians (Ati). Other stories claimed they were Aetas.

Some of the Datus did not stay in Panay but moved northward and settled in a bigger Island, Luzon. Their Kingdoms were known as the kingdom of Soliman in Manila and Kingdom of Lakandula in Tondo. In Panay the story goes, they had written laws such as:

The Code of Sumakuel

1. Great penalty shall be imposed on laziness. Land cultivated and planted.
2. Lazy person shall be arrested and sold as a slave (alipin) to work on the fields.
3. When the slave becomes industrious and an able worker, the purchase money shall be returned to his purchaser and the slave shall be freed to till his own land.
4. When a man, after gaining his freedom again becomes lazy and improvident, he shall be re – arrested and thrown into the deepest forest to keep him from associating with his own people.
5. Theft and reaping of plants grown and cultivated by others shall be severely punished and the person found guilty shall have his fingers cut.
6. Marriage to many women may be permitted in the beginning in order to increase the population. Afterwards only those who can support many wives and children may be permitted for more than one wife.
7. Poor persons shall not have more than two children and in excess of two in number shall be killed or thrown into swift rivers.
8. The authorities shall arrest man who dishonors a woman, runs away and not marry.
9. If the man is not found, the illegitimate child shall be killed, if the man is caught and he does not marry the women, he is killed and they shall be both buried in one grave.
10. Parents shall no longer take care of their daughters who beget illegitimate children.

Hamtik – Madiaas 1250

By virtue of the powers (given him by Datu Puti) Sumakuel accompanies the Nine Datus from the court of Brunei, Panay Island and by his election testified to by Datus Bankays, Paeberong Lubay, Padchinog, Dumansal and Dumalosdog, Sumakuel settled down to draft the Code of which was the charter of the Islands on Madiaas.

The Code of Kalantiao

From the clan of Datu Bangkay (head of Aklan ang Irong – Irong headed Datu Paeberong) the myth continued that another lawmaker, Datu Kalantiao emerged. Kalantiao Code allegedly done in 1250.

Code of Kalantiao

Article I. Ye shall not kill, neither shall ye steal neither shall ye do harm to the aged; last ye incur the danger of death. All those who infringe this order shall be condemned to death by being drowned in the river or in boiling water.

Article II. Ye shall obey. Let all the debts with the headman (principales) be met with punctuality. He who does not obey shall receive for the first time one hundred lashes. If the debt is large, he shall be condemned to thrust his hand in boiling water thrice. For the second time he shall be beaten to death.

Article III. Obey you. Let no one have women that are very young nor more than he can support; not be given excessive lust. He who does not comply with, or obey and observe this order shall be condemned to swim for three hours for the first time, and for the second time to be beaten with sharp thorns.

Article IV. Observed and Obey; let no one disturb the quiet of the graves. When passing by the caves and trees where they are, give respect to them. He who does not observe this shall be killed by ants or beaten with thorns until he dies.

Article V. Ye shall obey; he, who makes exchange for food, let it always be done in accordance with his word. He, who does not comply, shall be beaten for one hour, he who repeats the offenses shall be exposed for one day among ants.

Article VI. Ye shall be obliged to reserve sights that are held in respect such as those of trees of recognized worth and other sights. He who fails to comply shall pay one month's work in gold or in honey.

Article VII. Those shall be put to death, he who kills trees of venerable appearance;

who shoots arrows at nights of headmen (principals) without permission, he who kills the fish called shark or the dreaded Cayman.

Article VIII. Slavery for man (certain period of time) shall be suffered by those who steal away the women of headmen; by him who burns the fields of another.

Article IX. All those shall be beaten for two days; who sing while traveling at night, kill the manual; tear the documents belongings; or who mock the dead.

Article X. It is decreed an obligation; that every mother teach secretly to her daughters matters pertaining to lust, and prepare them for womanhood; let not be cruel nor punish their woman when they catch them in the act of adultery. Whoever shall disobey be killed by being cut into pieces and thrown to the Caymans.

Article XI. Those shall be burned who by their strength or cunning have mocked at and escape punish or who have killed young boys; try to steal the woman of the Agorangs.

Article XII. Those shall be drowned; all who interferes with the superiors, or their owners or masters; all those abuse themselves through their lust, those who disobeys or destroys their Anitos by breaking them or throwing stone.

Article XIII. All those shall be exposed to the ants for half a day; who kills black cats during the new moon, steal anything from the Chief or Agorangs, however shall be the object maybe.

Article XIV. Those shall be made slave for life; who have beautiful daughters and deny them to the sons of the chiefs, and with bad fate hide them away.

Article XV. Concerning beliefs and superstitions, those shall be beaten; who eat the diseased flesh of the beast which they held in respect, of the herb which they consider good, who wound or kill the young of the manual, or the white monkey.

Article XVI. The fingers shall be cut – off: all those who break idols of wood and clay in their alangan and temples; of those who destroy the daggers of the tagalons (used for killing pigs) or break the drinking jar of the latter.

Article XVII. Those shall be killed; who profane sights where idols re – kept, and sites where they buried the sacred things of the Diwatas and headman. He who performs his necessities in those places shall be burned.

Article XVIII. Those who do not cause these rules to be obeyed: if they are headman (principals). They shall be put to death by being stoned and crushed; if they are Agorangs they shall be placed in rivers to be eaten by sharks and Caymans, Done in the year 1433. So the myth ends.

When the Spaniards came, the term Visaya was applied to these people of Panay, Iloilo and Negros while the people of Cebu, Bohol, Leyte and Samar were for a long time known as the Pintados or painted because they tattooed their faces and body. The system of writing was brought to the country by the Borneans. Luzon, the Spanish later on romanized the alphabet.

The Ancient Visayas had a name for the days. They had seven days a week and twelve months a years and 355 days a year, each month having 30 days except for the last month having only 26. The names of the days are as follows: Monday – Tigburukad, Tuesday – Dumasum, Wednesday – Dukudukat, Thursdays – Baylo – baylo, Friday – Danghas, Saturday – Hingut – hingot, and Sunday – Ligid – ligid. Names of the months were: January – Ulalong, February – Dagangkahoy, March – Dagangbulan, April – killing, May – Himabuyan, June – Keny, July – Hidapdpon, August – Lubad – lubad, September – Kangurulsol, October – Baryo – baryo, November – Panglot Diutay, and December – Panglot nga Daku.

The Bornean system of writing common to all and the alphabet was only one known as the bayingbaying. It resembled to the Asokan Hebrew alphabet but scholars assigned that the origin was Sumatra. It has 17 letters, the three vowels serving as five because the E and I and O and U were interchanged having quite similar sounds. Every consonant was pronounced with vowels so that the sign for B is pronounced s /Ba/. A dot above makes it /be bi/ a dot below makes it /buh o/.

The system of writing was replaced by another Arabic origin but used by the European by the coming of Spaniards to the Islands. Every manuscript or inscriptions in bamboo showing the system were burned by the present Mangyans of Mindoro and Tagbanuas of Palawan who used it until the present time.²

² Gregorio F. Zaide, *The Philippine Political and Cultural History*, Vol. I. Revised Edition 1957 (Philippine Education Company: Manila, 1949) p. 10

Human Rights vs. Extrajudicial Killings

By: Atty. Rafael M. Iriarte, Ph. D.

Extrajudicial killing or any killing is immoral and is found in the Ten Commandments:

1. Thou shall not kill. (5th Commandment)

The constitution of the Philippines also provides for the right of the person not to be killed extra – judicially.

2. No person shall be deprived of life, liberty, or property without due process of law.¹

The present Justice system of our country also abolished or by law made death sentence no longer applicable.² Extrajudicial killing is the killing by government enforcement officers or by the state of a person without hearing, and this is a violation of human rights. If the killing is done by a vigilante, or a private person, who kills a drug offender violating R.A. 9165, then this is plain murder or homicide case and the vigilante is liable under the Revised Penal Code.

In the October 3, 2016 article in the Philippine Daily Inquirer, Associate Justice Marvic Leonen was quoted: “kung hindi tayo kikilos, sino ang kikilos? kung hindi ngayon, kalian pa? Justice Leonen cited the Philippine Constitution: *Art. III Sec 1. No person shall be deprived of life, liberty, or property, without due process of law.*

Relevant of laws with respect to human rights are: Anti Photo and Video Voyeurism Act of 2009, R.A. 9995 where photo or video images should not be shown in public display without the consent of the person in the image. R.A. 10173 is another law which protects the individual personal information and communication systems in the government and the private sector.

It is a human right that confidential information of a person should not be released by the private or government agency and that sensitive information shall be secured, except upon order of the court. The Bank Secrecy Act Law also ensures that the bank deposits of persons are not released without a valid court order. This is a human right.

R.A. 8424, An Act Amending the NIRC, Sec 270 also makes it unlawful to divulge secrets of a taxpayer, it is his human right. Another law, the R.A. 6713 or the Code of Conduct and Ethical Standards for Public Official and Employees, prohibits disclosure and/or misuse of confidential information. Again, this is the human right of

¹ Article III, Sec. 1, 1987 Constitution

² People v. Abarca, Sept, 14, 1987

the government employee with regard of this confidential information; that it could not divulged without his consent, or if there is no court order.

War on Drugs

Jhon Nery, editor in chief of Inquirer.net., said that since Pres. Rodrigo R. Duterte assumed office on June 30, 2016 up to Sept 19, 2016 a total of 1,027 deaths were recorded. 273 deaths remained unidentified, and 650, identified, and the rest were identified by alias. According to Jose W. Diokno, on August 31, 1981, "Human Rights are more than legal concepts; they are the essence of man."

Without human rights, I say, the humanness of the human being is lost and he is no longer human.

Human Acts, Animal Acts, Human Rights

"A human act is an act which proceeds from the deliberate free will of man," Rt. Rev. Paul J. Glenn, Ph. D., Sth. D. said, "In a wide sense, human acts means, any sort of activity, internal or external, bodily or spiritual, performed by the human being," he added. I, therefore, say, inhuman acts are animal acts.

"Man's animal acts of sensation (i.e use of senses) appetite (i.e., bodily tendencies), as well as acts that man performs indeliberately or without advertence and the exercise of free choice , are called acts of man", Glenn finally said. It can be found also in the writings of Francisco Balagtas in *Florante at Laura* and the writings of Jose Rizal like *Noli Mi Tangere*. These two writings were done during the Spanish times in 1839.

Republic of the Philippine Constitution

Article II Sec II provides: "The state values the dignity of every human person and guarantees full respect for human rights ."

United States Constitution

The preamble of the U.S. Constitution listed the 6th issue or reason why it was written. It says: "to secure the blessings of liberty (freedom) for ourselves and our posterity (future generations of Americans) – to protect the personal rights of all United States citizen's for all times"

Our Philippine Constitution provides the same inalienable rights and is also found in the preamble: "in order to build a just and humane society, under the rule of law and a regime of truth, justice, freedom, love equality and peace.

International Law

Senator Miriam Defensor – Santiago, who was appointed to the International Criminal Court, wrote in the IBP Journal VOL 33 No.1, She said: “International humanitarian law developed from the middle of the nineteenth century, with the following milestone 1899 and 1907, Hague Convention codifying the laws of man.” “The Geneva Convention under common Article 3 developed by protocol 2, the following acts are prohibited: violence of life and person, particularly murder, cruel treatment, and torture outrages upon human dignity, in particular humiliating and degrading treatment, passing of sentences in the absence of due process.”

Conclusion

I'll just quote the dictum of Glenn on International Law: “International law is, therefore, defined as the sum total of the rights and duties, natural and positive, by which nations are bound in their relations with one another.”

During my study life at U.P. Diliman College of Law, I can still remember from my professor in jurisprudence, when we were discussing about origins of law, whether positive or natural, he pointed out Hans Kelsen, that rectitude more than concupiscence is favorable because of the use cerebral than visceral, or the proneness to evil. When we are doing the cerebral part it is more good and useful as we are in the area of beneficence, certitude, cleanliness, daintiness, duty, fortitude, knowledge, morality, prudence and temperance, so we are on safe side.³

³ Bertham, Moore, Mill

Revisiting the Moral Dimension of Civil and Ecclesial Marriage in the American – Philippine Perspectives and Understanding the Effect of Same Sex Marriages to Civil and Ecclesial Dichotomy

By: Sonny S. Lukban, A. B. ¹

Abstract:

In as much that I would like to argue with the conventional perceptions of the law, the novelty of the issue at hand compels me to innovate standards of understanding what is mistakenly taken for granted in order to give life to the constitution; to the meaning of marriage which primarily tackles the most essential civil and moral dimension of every individual's existence.

For the purpose of this paper, I deeply believe that the common concepts even in the midst of conflicting ideas and principles to hold on with the important effects of marriage in the society are still unsettled. Do we just understand marital union as a duty, a right or a moral demand? Do we just base our conclusion premised from what are empirically observable about the changes on marriage ideals and acceptance?

I and Thou: The Philosophical Understanding of the Self towards and Embodied Perfection with Others

In the common horizon of human reality, the human person is naturally attracted to the abyss contained in the mystery of his existence. In his attempt to unveil the many questions of his life, he transcends beyond the confines of his *known self*² to march into a painful discovery of personhood, a web where he is always inextricably caught in.³ This truth of man's existence seems all the more paradoxical when he enters most intimately into what he calls "*himself*". His ordinary experiences would suggest seeking out reasons to assure his interior longing to know his autonomous identity, about who really he is. "Although the future of his life, as some scholars say, is not totally nebulous; however, it can possibly be anticipated to a certain extent by evaluating what he has at present. He needs to work towards this future even without knowing exactly what will it be."³ His fundamental quest in the sojourn of this self-made destiny or towards his future will always seem uncertain. He will have to come into his senses if confronted by a thought like: "*Is my existence on earth a living death or a dying life?*"⁴

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² This term "*known self*" means unrealized, growing, maturing self as made object of various philosophical and psychological critiques in the field of so many historical investigations.

³ Manuel B. Dy Jr., *Contemporary Social Philosophy* (Quezon City: JMC Press, Inc. 1994), 15.

⁴ St. Augustine of Hippo, *Confession*, VI, 5, 7: CCL 27.

Why am I thrown out into the world of uncertainties? "These questions would simply testify that the meaning and truth of any human phenomenon like that of marriage can never be absolutized. The sphere which is constitutive of the definition of his existence is, therefore, not exempted from this changing character of human life."⁵ This is the primary reason why man is always in the constant struggle about everything—about life and survival. He cannot help, otherwise, but always fall out of his volition into the realm of *whys*, considering the element that covers the genuineness of his human existence. Everything is unclear, a puzzle that needs to be deciphered. And the more he goes to its depth, the more he eventually understands that *life is more a disturbing question rather than an answer in itself*.⁶ Likewise, he becomes aware that this question is an inevitable substance which completes the meaning of his search; hence, *perceiving human life as a great paradox, an incomprehensible contradiction and [even] a dreadful tragedy*.⁷

Now, just like any others, we can also ask: "What is so obscure in one's life that it becomes so pleasing to human inquiry? And despite the effort of great thinkers across space and time, why does it remain an inexhaustible source of amazement and wonder?"⁸

Of course, in this paper, our speculation towards accurately understanding man's nature lies within the boundaries of philosophy and legality. The best way to approach it philosophically is to know its nature and *ask philosophical questions* ⁹ as what the Greek immortal sages like Socrates, Plato and Aristotle did. Fr. Norris Clarke, a Jesuit metaphysician provides a good counsel when he says, "Philosophy is the critically reflective, systematically articulated attempt to illumine our human experience in the depth and set it in a vision of a whole."¹⁰ Thus, Fr. Clarke's influence gives impetus to bring this manuscript into what I believe must serve as the fundamental query to unlock this *vision of a whole* where human existence can be intrinsically examined. Such that I could say everything that is experienced by the human person could be explained via a primordial element – the grounds of *freedom*. By freedom, I mean a fundamental piece within human nature that makes him capable of an internal quality, which is open for a 'possibility to act' as he wills to satisfy his human tendencies.¹¹ In fact, this 'possibility to act' is consequently needed in order to perfect the dialogue of human life in communion with others as well, and basically uniting with man's reality even not through marital union.

⁵ Dy, 9.

⁶ Florentino Timbreza, *Quest for Meaning* (Quezon City: New Days Publishers, 2000), 30.

⁷ Timbreza, 2.

⁸ Edgar Ponce, "Human Existence: A Dialogue between Simplicity and Mystery" (Bachelor's synthesis, St. Vincent de Paul College Seminary, 2011), 2.

⁹ Jostein Gaarder, *Sophie's World* (New York: Phoenix House, 1995), 12.

¹⁰ Norris Clarke, *The One and the Many: Contemporary Thomistic Metaphysics* (Notre Dame: University of Notre Dame Press, 2001), 17.

¹¹ George Kaitholil, *Make Freedom Your Target* (Bombay: Better Yourself Books, 1992), 10.

This is the most important point why I grounded my paper on "Revisiting the Moral Dimension of Civil and Ecclesial Marriage in the American – Philippine Perspective and Understanding the Effect of Civil and Ecclesial Dichotomy." I want my readers to consider this freedom on marriage not in solipsistic isolated notion just like with the misconception observed on the "ego" of Cartesian subjective point of view but rather as a magnetic entity that sustains the so called human unending auto – determination.¹²

This paper is, therefore, an attempt to understand the very "dialogue of marriage" from within, from the ultimate source of human freedom as the fountain where life's mysterious force lies. As such, it exhibits as a distinct exploratory procedure from the traditional approach, which has analyzed the "marriage" from objective categories taken from without, only from external factors in the field answerable by science. Man is more than just a scientific reality! Nevertheless, placing man into a higher pedestal of our philosophical guesswork, his existence could be legitimately understood from the basic dimensions, without missing the most essential element of what makes him as "he is", a human person. Karol Wojtyla asserts that man as a subject of his own experience and action must be perceived through his whole experience as a *suppositum*, also capable of spiritual communion. Wojtyla adds that metaphysical subjectivity or the *suppositum*, as the transphenomenal and therefore fundamental expression of the experience of the human being, is also the guarantor of the identity of his human being in existence and in activity.¹³

In this sense, Wojtyla emphasizes that "uniqueness" is an essential character of the human beings rather than "concreteness". Because of man's interior desire for *communion*, this uniqueness becomes clearer through the exercise of his freedom that is not being overlooked but is conceived, in man's integrity as an avenue for self – determination without necessitation from willing. It becomes the fulfillment brought forth by the internal harmony between reason and feelings, residing in man's spiritual faculty of volition (*will*), in the common *locus* of experience from which man's life solely revolve. By that, man should never be alone.

¹² "Self – determination represents the deeper, more fundamental dimension of human authorship. The synthesis of authorship and self – determination is the only path toward man's revealing himself as an individual endowed with the attributes of self-disposition and self – possession. When man makes choice between other objects and values, he will inevitably make a determination as to himself and to his own value. He thus becomes his own primary object". An extract taken from Karol Wojtyla, *Towards A Philosophy of Praxis* (New York: Crossroad Publishing, 1981), 10 – 23.

¹³ *Suppositum* or *Suppositum Humanum* can be interpreted as the self or as the subject. Wojtyla writes, "The self is nothing other than the concrete *Suppositum Humanum*" [Karol Wojtyla, "Person: Subject and Community," in *Person and Community: Selected Essays*, 231].

The Civil and Ecclesial Encapsulation of Marriage: Its Scope and Delimitation

Per contra, our definition of human reality and his fundamental vocation *to be with* is a never ending truth to optimize man's personhood. While marriage can be understood as a necessity or an obligation, this understanding can never be tolerated, provided that it only limits the substantial meaning of marriage in general; its civil scope and theological horizon. The Philippine Constitution perceived marriage under Art. 1., as a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences and incidents are governed by law.¹⁴ Moreover, the State recognizes the Filipino Family as the foundation of the nation which strengthens its solidarity and actively promotes its total development. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State, so with that the State shall defend: (1) the right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood; (2) the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development; (3) the right of the family to a family living wage and income; and (4) the right of families or family associations to participate in the planning and implementation of policies and programs that affect them. Justice William O. Douglas (1898 – 1980) provides concrete reasons when he said from his ruling for the majority in the U.S. Supreme Court case, *Griswold v. Connecticut*, dated 1965 – June:

“We deal with a right to privacy older than the Bill of Rights — older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.”¹⁵

With this, while we assume that marriage is a civil right, it is undeniable that it requires an ethical understanding as what Paul Glenn in his *Ethics* has described – the search on what is totally true, good and valuable. The Code of Canon Laws of the Catholic Church defends this argument when it stressed out under Can. 1055 § 1 – 1056. The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a *sacrament* between the baptized. The essential

¹⁴ Title XI – XV, Repealed by Executive Order No. 209, otherwise known as the “Family Code of the Philippines”

¹⁵ This was the first ruling that guaranteed individual right to privacy, at least for married couples. It overturned a state law that criminalized the use of contraceptives. The law had been passed in 1879 and almost never enforced. Note that this quotation is often incorporated into same – sex wedding ceremonies.

properties of marriage are *unity* and *indissolubility*, in which Christian marriage obtains a special firmness by reason of the sacrament.

Furthermore, the Catechism of the Catholic Church substantiated this reason when it added that the intimate community of life and love which constitutes the married state has been established by the Creator and endowed by Him with its own proper laws. God himself is the author of marriage. The vocation to marriage is written in the very nature of man and woman as they came from the hand of the Creator. Marriage is not a purely human institution despite the many variations it may have undergone through the centuries in different cultures, social structures, and spiritual attitudes. Let us hope that these differences should not cause us to forget its common and permanent characteristics. Although the dignity of this institution is not transparent everywhere with the same clarity, some sense of the greatness of the matrimonial union exists in all cultures. The late Karol Wojtyla brought these thoughts in simple manner.

Here Wojtyla considers (a) monogamy and the indissolubility of marriage; (b) the value of the institution of marriage; (c) procreation and parenthood; and (d) periodic continence: method and interpretation.

A. Monogamy and the Indissolubility of Marriage

Wojtyla argues that monogamy and the indissolubility of marriage are required by the personalistic norm, declaring: "Attempts to solve the problem of marriage other than by monogamy (*which implies indissolubility*) are incompatible with the the other. In short, I would interpret these pages by saying that monogamy and indissolubility of marriage are rooted in the being of the spouses, the identity they have given themselves by getting married.

B. The Value of the Institution of Marriage

Wojtyla next argues that the "institution of marriage" justifies the intimate sexual relationship between husband and wife in the eyes of society. Why? It does so because the institution, Wojtyla seems to argue, serves to protect the inter – personal structure of marriage as a community of two persons united or made one by reason of their love. In short, so the argument seems to me, the value of marriage as an institution is that it serves to protect conjugal love or the community of persons made one because of their love and thereby "provides a justification for the sexual relationship between a particular couple within the whole complex of society." (p. 219), or, to put it somewhat differently, "in a society which accepts sound ethical principles and lives in accordance with them; this institution is necessary to signify the maturity of the union between a man and a woman, to testify that theirs is a love on which a lasting union and community can be based." (p. 220)

Marriage as an institution is demanded in order to protect conjugal love.

C. Procreation and Parenthood

Marriage is a "state," a durable institution providing the framework necessary to justify the existence of sexual relations between a man and a woman; moreover, within marriage sexual relations are ongoing, a regular succession of acts. But every such act within marriage must have its own internal justification. The problem here, Wojtyla says, is to adapt sexual relations to the objective demands of the personalistic norm: "it is in this context more than in any other that people must show responsibility for their love. Let us add at once that this responsibility for love is complemented by responsibility for life and health: a combination of fundamental goods which together determine the moral value of every marital act." (p.225)

Wojtyla then seems to distinguish sharply (while nonetheless integrating) two orders that "meet" in the sexual union of man and woman: the "order of nature which must not be identified with the "biological order", which has as its object reproduction "or better, procreation", and the personal order, which finds its expression in the love of persons and aims at the fullest realization of that love."

He asserts that these two orders are inseparable and insists that "the correct attitude toward procreation is a condition for the realization of love." Emphasizing that both procreation and love are based on free choice, he then says: "When a man and a woman consciously and of their own free will choose to marry and have sexual relations they choose at the same time the possibility of procreation, choose to participate in creation. And it is only when they do so that they put their sexual relationship within the framework of marriage in a truly personal level." (p. 227). He then argues that in marrying and in engaging in the marital act the man and the woman freely choose to accept consciously the possibility of parenthood, of becoming a mother and father. He contends that "when a man and a woman capable of procreation have intercourse their union must be accompanied by awareness and willing acceptance of the possibility that 'I may become a father' or 'I may become a mother.' Without this the marital relationship will not be 'internally' justified, the union of persons is not the same as sexual union. This latter is raised to the level of the person only when it is accompanied in the mind and the will by the acceptance of the possibility of parenthood."¹⁶

The well – being of the individual person and of both Human and Christian society is closely bound up with the healthy state of conjugal and family life. God who created man out of love also calls him to love the fundamental and innate vocation of every human being. For man is created in the image and likeness of God who is himself

¹⁶ These commentaries are based from the summary made by William E. May on the published book of the late Karol Wojtyla in Polish in 1960 and in English in 1981. This is a magnificent work, philosophical in nature on the human person, human sexuality, love, and marriage. The book has five chapters; One: The Person and the Sexual Urge; Two: The Person and Love; Three: The Person and Chastity; Four: Justice to the Creator; and Five: Sexology and Ethics.

love. Since God created him man and woman, their mutual love becomes an image of the absolute and unfailing love with which God loves man. It is good, very good, in the Creator's eyes. And this love which God blesses is intended to be fruitful and to be realized in the common work of watching over creation: "And God blessed them, and God said to them: "Be fruitful and multiply, and fill the earth and subdue it." The Holy Scripture affirms that man and woman were created for one another: "It is not good that the man should be alone." The woman, "flesh of his flesh," his equal, his nearest in all things, is given to him by God as a "helpmate"; she thus represents God from whom comes our help. "Therefore a man leaves his father and his mother and cleaves to his wife, and they become one flesh." The Lord himself shows that this signifies an unbreakable union of their two lives by recalling what the plan of the Creator had been "in the beginning": "So they are no longer two, but one flesh."¹⁷

Questionable Marital Unions of the 21st Century: Facts Established for Same – Sex Marriages

It is of great importance to understand marriage as both ubiquitous and central in character. All across the world, in every region, every social class, every race and ethnicity, every religion or non - religion, people get married. For many if not most people, moreover, marriage is not a trivial matter. It is a key to the pursuit of happiness, something people aspire to – and keep aspiring to, again and again, even when their experience has been far from happy. To be told "You cannot get married" is thus to be excluded from one of the defining rituals of the American life cycle.

The keys to the kingdom of the married might have been held only by private citizens – religious bodies and their leaders, families, other parts of civil society. So it has been in many societies throughout history. In the United States, however, as in most modern nations, government holds those keys. Even if people have been married by their church or religious group, they are not married in the sense that really counts for social and political purposes unless they have been granted a marriage license by the state. Unlike private actors, however, the state does not have the complete freedom to decide who may and may not marry. The state's involvement raises fundamental issues about equality of political and civic standing.

Same – sex marriage is currently one of the most divisive political issues in our nation. In November 2008, Californians passed Proposition 8, a referendum that removed the right to marry from same – sex couples who had been granted that right by the courts. This result has been seen by the same – sex community as deeply degrading. More recently, Iowa and Vermont have legalized same – sex marriages, the former through judicial interpretation of the state constitution, the latter through legislation.

¹⁷ Definitive Edition: Catechism of the Catholic (Liberia Editrice Vaticana, Citta del Vaticano, 1994), 1602 – 1605. This translation is based on the Latin "Editio Typica" of the Catechism promulgated by Pope John Paul II on August 15, 1997. All updates and "corrigenda" have been integrated in the proper context.

Analyzing this issue will help us understand what is happening in our country, and where we might go from here.

Marriage, it soon becomes evident, is no single thing. It is plural in both content and meaning. The institution of marriage houses and supports several distinct aspects of human life: sexual relations, friendship and companionship, love, conversation, procreation and child-rearing and mutual responsibility; marriages can exist without each of these. (We have always granted marriage licenses to sterile people, people too old to have children, irresponsible people, and people incapable of love and friendship. Impotence, lack of interest in sex, and refusal to allow intercourse may count as grounds for divorce, but they do not preclude marriage.) Marriages can exist even in cases where none of these is present, though such marriages are probably unhappy. Each of these important aspects of human life, in turn, can exist outside of marriage, and they can even exist all together outside of marriage, as is evident from the fact that many unmarried couples live lives of intimacy, friendship, and mutual responsibility, and have and raise children. Nonetheless, when people ask themselves what the content of marriage is, they typically think of this cluster of things.

Nor is the meaning of marriage single. Marriage has, first, a civil rights aspect. Married people get a lot of government benefits that the unmarried usually do not get: favorable treatment in tax, inheritance, and insurance status; immigration rights; rights in adoption and custody; decisional and visitation rights in health care and burial; the spousal privilege exemption when giving testimony in court; and yet others.

Marriage has, second, an expressive aspect. When people get married, they typically make a statement of love and commitment in front of witnesses. Most people who get married view that statement as a very important part of their lives. Being able to make it, and to make it freely (not under duress) is taken to be definitive of adult human freedom. The statement made by the marrying couple is usually seen as involving an answering statement on the part of society: we declare our love and commitment, and society, in response, recognizes and dignifies that commitment. Wojtyla had it in his metaphysical interpretation of love:

"After a brief introduction on the almost inexhaustible richness of meaning found in the word "love", I wanted to focus on three basic elements in any form of human, interpersonal love, namely attraction, desire, and goodwill. I wanted also to take up the problem of reciprocity of love between human persons, the movement from sympathy to love, and concludes this part with a discussion of betrothed love. I personally believe and provide as my starting point that *"love is always a mutual relationship between persons,"* a relationship based on "particular attitudes toward the good, adopted by each of them individually and by both jointly." (p. 73)

Marriage has, finally, a religious aspect. For many people, a marriage is not complete unless it has been solemnized by the relevant authorities in their religion, according to the rules of the religion. A 2012 study from the University of Maryland, "The Cross – Pressures of Religion and Contact with Gays and Lesbians, and Their

Impact on Same – Sex Marriage Opinion,” examines how the interaction of these two often – countervailing pressures plays out and influences policy preferences on marriage. The study’s findings include:

1. Having a close relationship with a gay or lesbian individual – a friend or family member – had the greatest impact on the views of Latino Catholics and black Protestants: for Latino Catholics, having such contact diminished support for a ban on same – sex marriage by 12 percentage points on average; for black Protestants, the effect was 5 percentage points.
2. Several things may explain this effect on Latino Catholics and black Protestants: a stronger affiliation between historically marginalized groups; church teachings about equality; and a possible stronger split between religious commitment and political opinion on this issue.
3. However, the effect of having casual contact with a gay person – a co – worker or acquaintance – is not significant for most religious groups, including white and black Protestants. In fact, “The predicted probability of support for the ban is actually greater by about three to four percentage points for white mainline Protestants and white Catholics with a gay coworker or acquaintance.”
4. Among religious groups, only the views of Latino Catholics seem influenced by more casual acquaintance with gay or lesbian persons: such relationships are associated with a 3 – to 5 percentage point decrease in the likelihood of support for a same – sex marriage ban.
5. Among persons unaffiliated with any religion, close personal contact with a homosexual was associated with 8 percentage point decrease in the probability of support for a ban on same – sex marriages in the country.¹⁸

Government plays a key role in all three aspects of marriage. It confers and administers benefits. It seems, at least, to operate as an agent of recognition or the granting of dignity. And it forms alliances with religious bodies. Clergy are always among those entitled to perform legally binding marriages. Religions may refuse to marry people who are eligible for state marriage and they may also agree to marry people who are ineligible for state marriage. But much of the officially sanctioned marrying currently done in the United States is done on religious premises by religious personnel. What they are solemnizing (when there is a license granted by the state) is, however, not only a religious ritual, but also a public rite of passage, the entry into a privileged civic status.

¹⁸ Published in *Politics and Policy*, the study is based on data from two separate sources: the Kinder Houston Area Surveys from 2001 and 2009; and the 2006 – 07 Common Content surveys from the Cooperative Congressional Election Studies (CCES). The study, by Brittany H. Bramlett of the University of Maryland, distinguishes between casual contact with gay persons and closer contact through family or friendship.