

Taruc v. dela Cruz: Conservatism in Reviewing Decisions of Ecclesiastical Tribunals

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I. INTRODUCTION

The jurisdiction of the civil courts to review the decisions of ecclesiastical tribunals in suspending or expelling members from a church, religious society, or corporation is limited by primordial considerations of religious liberty and the principle of separation of church and state. Some of the considerations are well-settled, such as the right of the individual to associate

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and disassociate because of religious beliefs.¹ However, the law is less than settled in areas where the individual seeks to *assert* his right to associate in relation to an association he was with previously – especially where the association is a religious organization protected by the *wall of separation*.

The nature of the organization becomes an obstruction to one's plea or petition for reinstatement to a previously recognized membership or right of association. This is because a religious organization is protected by the separationist clauses² of the Constitution. As a noted jurist once remarked:

[t]he proper relationship between civil authority and ecclesiastical jurisdiction on religious matters is important for the preservation of the principle of freedom of religion. For freedom of worship cannot be attained if civil authorities are permitted to invade the domain of the religious society or when ecclesiastical power is allowed to interfere in civil affairs.³

But issues being raised in civil courts – such as, in a church whose system of administration or polity requires that suspension or expulsion be by majority vote of the congregation, whether a majority vote was actually obtained, or whether the body expelling is the true church, a question may arise because of a division of the original body into rival organizations – each claiming to be the true church, and many other issues regarding the impregnable area of disquisition. This brings to fore the primary question: *Can the civil courts intervene in such matters?*

Under the principle of *separation of Church and State*⁴ there is need for appropriate treatment of the proper functions of both Church and State. In deference to the Church,⁵ the State recognizes ecclesiastical jurisdiction, if

1. *Victoriano v. Elizalde Rope Workers Union*, 59 SCRA 54 (1974) (The right to associate includes the right to disassociate).

2. PHIL. CONST. art. III, § 5. The Freedom of Religion Clause and the Non-Establishment Clause, which as worded, provides:

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

3. JORGE R. COQUIA, *CHURCH AND STATE LAW AND RELATIONS* 216 (1989).

4. See PHIL. CONST. art. II, § 6.

5. Or to the many religious organizations that comprise the ambivalent term.

not for the fact that the Church is not merely a society based upon contract, but one that comes from a *higher plane*,⁶ then perhaps from “immemorial usage ... that [the Church] has the power to establish tribunals and to pass final judgment on controverted questions of faith and morals and of ecclesiastical discipline, where and when its members are concerned.”⁷ Due to this, judicial intervention in disputes arising from termination and intra-organization controversies are generally disallowed. To allow the members to petition for a review of the validity of their termination from the religious organization has been an issue raised in several cases.

The general rule has always been the dismissal of the petition based on lack of jurisdiction by the civil courts over the dispute. This is the sole issue in the case of *Taruc v. Dela Cruz*⁸ – *can a civil court intervene in an intra-organizational dispute of a religious congregation?*

II. THE CASE OF *TARUC V. DELA CRUZ*

A. *Parties to the Case*

The petitioners, including Taruc and nine others, were lay members of the Philippine Independent Church (PIC), a recognized religious organization in the Philippines. They were members of the Socorro, Surigao del Norte chapter. Respondents were the bishop, Bishop Porfirio dela Cruz, and the parish priest, Rev. Fr. Rustom Florano, of the same religious organization and the respective local congregation. The wife of the local parish priest belonged to an opposing political camp from that of the petitioners. Hence, there was animosity brought about by the latter priest being identified with his wife’s political party.

B. *Facts of the Case*

The animosity that was initiated by political party issues created hostility among the members of the PIC in Socorro, Surigao del Norte. The dispute worsened when petitioner Taruc tried to organize an open mass to be

6. See *Watson v. Jones*, 13 Wall. 679 (1879).

7. GEORGE MALCOLM & JOSE P. LAUREL, *THE CONSTITUTIONAL LAW OF THE PHILIPPINES* 409 (3d ed. 1936); *Versoza v. Fernandez*, 55 Phil. 307 (1930); *Gonzales v. Roman Catholic Archbishop of Manila*, 280 U.S. 1 (1929).

8. *Taruc v. dela Cruz*, G.R. No. 144801, Mar. 10, 2005.

celebrated by another priest by the name of Fr. Renato Z. Ambong, instead of the designated local parish priest, Fr. Florano, during the town fiesta. When Taruc informed Bishop de la Cruz of his plan, the Bishop tried to dissuade him from pushing through with it because Fr. Ambong was not a member of the clergy of the diocese of Surigao. Bishop de la Cruz, however, failed to stop Taruc from carrying out his plans. Taruc and his sympathizers proceeded to hold the open mass with Fr. Ambong as the celebrant.

Subsequently, Bishop dela Cruz declared petitioners expelled/excommunicated from the PIC for reasons of:

- (1) disobedience to duly constituted authority in the Church;
- (2) inciting dissension, resulting in division in the local parish of PIC in Socorro, Surigao del Norte, when they celebrated an open mass with a non-recognized priest; and
- (3) for threatening to forcibly occupy the parish church, causing anxiety and fear among the general membership.

Petitioners appealed to the *Obispo Maximo* and sought reconsideration of the decision. The *Obispo Maximo* sided with the decision. In the meantime, Bishop de la Cruz was reassigned to the diocese of Odmoczan and was replaced by Bishop Rhee M. Timbang. Like his predecessor, Bishop Timbang did not find a valid reason for transferring Fr. Florano to another parish. He issued a circular denying petitioners' persistent clamor for the re-assignment of Fr. Florano. Petitioners were informed of such denial but they continued to celebrate mass and hold other religious activities through Fr. Ambong, who had been restrained from performing any priestly functions in the PIC parish of Socorro, Surigao del Norte.

C. Procedural History

Because of the order of expulsion or excommunication, petitioners filed a complaint for damages with preliminary injunction against Bishop dela Cruz before the Regional Trial Court (RTC) of Surigao City. They impleaded Fr. Florano and one Delfin T. Bordas, on the theory that they conspired with the Bishop to have petitioners expelled and excommunicated from the PIC. They contended that their expulsion was illegal because it was done without trial, thus violating their right to due process of law.

A Motion to Dismiss was filed by the respondents on the ground of lack of jurisdiction. It was denied and the RTC took jurisdiction over the case.

Once elevated to the Court of Appeals, the Motion to Dismiss was granted,⁹ hence the petitioners appealed by certiorari.

D. Issue Presented to the Court

The sole issue raised is whether or not the civil courts have jurisdiction to hear a case involving the expulsion or excommunication of members of a religious institution.

III. LEGAL HISTORY

The general rule established in this jurisdiction is that when it comes to *matters of discipline, excision, faith, and practice of religion*, the Church is supreme, and civil authorities should not inquire therein. This is because the realm of the religious is centered on these matters, and secular inquiry cannot intrude therein.¹⁰ This principle is also based on the theory that ecclesiastical authorities are in a more capable and competent position to pass upon religious matters in comparison to civil courts.

The underlying principle that has contributed to the evolution of this theory is that the right to voluntary religious association includes the right to create tribunals for the settlement of controverted questions of faith within the organization and for the ecclesiastical government¹¹ of certain individuals and officers.

9. *Id.* at 7. The Court of Appeals held that:

We find it unnecessary to deal on the validity of the excommunication/expulsion of the private respondents (*Taruc, et al.*), said acts being purely ecclesiastical matters which this Court considers to be outside the province of the civil courts.... Civil Courts will not interfere in the internal affairs of a religious organization except for the protection of civil or property rights. Those rights may be the subject of litigation in a civil court, and the courts have jurisdiction to determine controverted claims to the title, use, or possession of church property.... Obviously, there was no violation of a civil right in the present case.... Ergo, this Court is of the opinion and so holds that the instant case does not involve a violation and/or protection of a civil or property rights in order for the court *a quo* to acquire jurisdiction in the instant case.

10. COQUIA, *supra* note 3 at 220.

11. This is akin to the administrative process of the civil government. Hence, an inquiry may be made as to the possibility of the development of an *exhaustion of*

In the words of Justice Samuel F. Miller:

The law knows no heresy and is committed to the support of no dogma, the establishment of no sect ... If the civil courts are to inquire into all these matters, the whole subject of doctrinal theology, the usages and customs, the written laws and fundamental organization of every religious denomination may, and must, be examined into with minuteness ... for they would become, in almost every case, the criteria by which validity of the ecclesiastical decree would be determined in the civil court.¹²

The recognition of Church tribunals is not an original doctrine in this jurisdiction. Drawn from the wisdom of foreign jurisprudence, it has been decided previously that “courts will defer to the decision made by a hierarchical church even if there is a contention that said church’s own law was not applied.”¹³ This is derived from the functions of the “wall of separation.”¹⁴ It is false to say that religion and the State operate under separate realms. The State, being composed of people, territory, government, and sovereignty, shares two elements concentrically with religion, and two other elements in an interstitial relationship with religion. Religion occupies territory and is composed of individuals who are of the same belief. Religion also has its government and is possessed of some semblance of sovereignty. In fact, it is with the latter two concepts that the State usually encounters social friction or legal issues with religion.

remedies principle before the intrusion of the civil authorities may be warranted even in purely secular intra-organization dispute where the civil courts has deemed themselves to be able to judge (i.e. property disputes). See dissenting opinion in *Long v. Basa*, 366 SCRA 113 (2001).

12. See *Watson v. Jones*, 13 Wall. 679 (1872), cited in *Gonzales v. R. Archbishop*, 51 Phil. 420, 434 (1928).

13. *Id.* at 700.

14. See *McCullum v. Board of Education of Champaign*, 333 U.S. 203, 223 (1948) (“...both [religion and the State] must operate in unrelated spheres behind an impregnable ‘wall of separation...’”); but see *Zorach v. Clauson*, 393 U.S. 203 (1952), where the United States Supreme Court declared that while the First Amendment requires complete and unequivocal separation of Church and State, so far as interference with the *free exercise* of religion and an *establishment* of religion are concerned, and within the scope of its coverage permits no exception, it does not require separation in every and all respects. See also *U.S. v. Villacorta*, 25 Phil. 273, 276 (1913), where the Philippine Supreme Court adopted the *wall of separation* doctrine citing the adoption of the Philippine Bill of 1902, which adopted United States law into the local legal system.

In issues of civil government versus ecclesiastical government, it has been proverbially quoted by the Philippine Supreme Court that:

The rationale of the principle of the separation of church and state is summed up in the familiar saying, "Strong fences make good neighbors." The idea advocated by this principle is to delineate the boundaries between the two institutions and thus avoid encroachments by one against the other because of a misunderstanding of the limits of their respective jurisdictions. The demarcation line calls on the entities to "render unto Caesar the things that are Caesar's and unto God the things that are God's."¹⁵

Various reasons have been alleged as the basis for such limitation but it is believed that the considerations upon which it is mainly based are the principles of religious liberty and the separation of church and state inherent in the Anglo-American constitutional system that the Philippines has adopted.¹⁶ In this, the American system differs from Great Britain, where in both England and Scotland, established churches are associated with the government, and consequently, decisions of the British courts as to ecclesiastical matters – even where independent or voluntary churches are involved – have been held to be without authority in the United States. The principle suggested above, is, of course, merely a particular application of the general principle of freedom of opinion upon which the Philippine governmental system is based. The sociological factors in the application of the principles of the Jeffersonian *Wall of Separation* are also considerations.¹⁷ The political history and mainstream legal biases are placed upon a hierarchy unrequitedly commensurate to the more definitive constitutional principles which later jurisprudence will have to dissect.

To an extent explained in subsequent sections, the jurisdiction of the civil courts to review the decisions of ecclesiastical authorities in suspending or expelling members from a church, religious society, or corporation is

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15. *Austria v. National Labor Relations Commission (NLRC)*, 312 SCRA 410, 421 (1999) (*citations omitted*), where the Supreme Court made a very absolutist obiter that "[w]hile the State is prohibited from interfering in purely ecclesiastical affairs, the Church is likewise barred from meddling in purely secular matters."
 16. *In Re Shoop*, 41 Phil. 213 (1920); *see also* Cesar L. Villanueva, *Comparative Study of the Judicial Role and Its Effects on the Theory on Judicial Precedents in the Philippine Hybrid Legal System*, 65 PHIL. L.J. 42 (1990).
 17. *See* Clarence Rommel C. Nanquil, Comment, *The Sacred, the Profane, and the Religious Endorsement*, 49 ATENEO L.J. 212 (2004), where there was a discussion of the legal history of the Jeffersonian Wall of Separation in the context of a sociological backdrop, particularly the liberal and the backward societies.

sharply limited. In addition to the limitations upon such jurisdiction occasioned by the peculiarities of religious organizations, the courts, in reviewing such an expulsion, are also subject to those which appear in cases involving membership organizations of other types. Hence, the principle is to delineate the affairs of one against the other.

However, an absolute delineation is never easy to make. Defining the boundaries between the State and religion has never been an easy task, even for the Supreme Court. It has been wise for the State to recognize the existence of ecclesiastical government that has powers and authority that need not be in conflict with that of the State, yet has some semblance of secular quasi-governance.

It is consistently recognized that there will always be a realm where religious tribunals have exclusive jurisdiction. The hierarchical church, in many instances, has the final decision-making power no matter what the opinion of the community or any civil authority may be.¹⁸ This is drawn from the *Higher Plane Theory* established in the case of *Watson v. Jones*.¹⁹ However, this *Higher Plane Theory* has received much criticism from the theories that argue that membership in religious associations is a contract and is therefore enforceable in some aspects.²⁰

B. Membership Rights in Religious Organizations/ Associations

Membership in a religious organization is not just a social demographics issue. It presents itself as a legal issue when it speaks of the rights of individuals to be associated and to be disassociated with religious organizations. Religious organizations, it has been argued, has an unquestioned *right to proselytize* or to seek members in their folds.²¹ As stated by the learned jurist:

An earnest believer usually regards it as his duty to propagate his opinions and to bring them to others. To deprive him of his right is to take from him the power to perform what he considers a most sacred obligation. The

18. *Galich v. Catholic Bishop of Chicago*, 75 Ill.App. 3d. 538, 294 N.E.2d. 572 (1970), 445 U.S. 916 (1980) *certiorari denied*.

19. *See Watson v. Jones*, 13 Wall. 679 (1872) (The *Higher Plane* theory recognizes that the Church is not a mere voluntary association but one established by Jesus Christ independent and sovereign within its own sphere of man's spiritual being).

20. CARL ZOLLMAN, *AMERICAN CHURCH LAW* 287 (1933).

21. COQUIA, *supra* note 3 at 113-17.

legal right to believe and to worship would be incomplete without the constitutional right to share one's views with others, and to seek to win them to one's faith, by giving information as to one's views, by exhortation, by critical analysis of contrary views, and by solicitation of financial assistance in carrying the truth to others. These are the very rights which the [Constitution] protects.²²

In the recognition of the right to proselytize, as well as the right to associate and disassociate, the question more relevant to the presentation of rights is whether or not there is a right to compel the religious organization to accept one into the fold and to have the religious organization declare one's termination invalid.

There are two theories in this matter: (1) the Higher Plane Theory and the (2) Contract Theory. It is apt to discuss the membership right of an individual after contextualization under the two theories.

1. Higher Plane Theory

Religious organizations may be taken together in the category *Church*. This Church is a juridical society by itself, complete within its sphere and entitled to the means necessary to attain its end.²³ In this sense, it has the right to impose juridical obligations upon its members who are strictly bound by justice to obey.

The *Higher Plane Theory* takes cognizance of the supernatural status of the Church. The juridical perfection of the Church is by no means an arbitrary and liberal concession of the State, but is a fact that proceeds from the positive will of the Founder who endowed His Apostles with the authority to govern the Church freely and independently of all earthly power.²⁴

Though it may be taken as a policy bias towards Christian Churches because of the development of the rationale of separation from Philippine legal history as being derived from the Christian doctrines of an institutionalized hierarchical church, the *Higher Plane Theory* does not confine itself to the majority, but is a recognition of the supernatural status of religion *per se* over the State, and the recognition as well of a construction in

22. *Id.* at 115.

23. *Id.* at 222 (citing a comparative study of Christian Constitutions of the United States).

24. *Id.* at 221.

favor of religious liberty over State intervention. The *Higher Plane Theory* advances the thought of absolute control and supervision of religious leaders over the membership. Little or no regard is given to the rights of the members to petition for redress in civil courts regarding questions of termination. In fact, it may be noted that under this theory, civil complaints are looked upon with disfavor and a bias exists towards the sovereignty of the Church to excommunicate a member without listening to the member's plea. This has been the traditional resort of civil courts where there is a dispute regarding internal affairs of religious organizations. What the State did not and could not create, the State could not regulate. Having been derived from an authority beyond that of the State's, the State is without jurisdiction to intervene in matters of governance, membership and other intra-organizational issues of religious groups.

2. Contract Theory

Being a part of a religious organization (much like being a part of the State) is also a *contract*. This is the more liberal view regarding disputes over religious governance and other intra-organizational issues, particularly that of membership.

Carl Zollman²⁵ advanced the argument that religious membership is also a contract and hence, enforceable between parties. Being a contract, the State has an interest in its enforcement. Being a contract, there are instances when the State may intervene to enforce the contract, subject to limitations set forth by law and constitutional prudence.

The doctrine of the organization – both religious and non-religious in nature – still constitute terms of a membership agreement between the organization and its members. Such a membership contract would supersede or precede any relationship which the member entered into, since it is contextual in respecting individual relationships. The relationship must be in compliance with such in order to be condoned, sanctioned, or allowed. The problem, however, is the proof of the fact of the terms of the agreement.

25. ZOLLMAN, *supra* note 20 at 20-35.

3. Religious Tests and the Application of the Two Theories

In *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*,²⁶ the United States Supreme Court held the lower Georgia courts to have violated the free exercise and non-establishment clauses of the First Amendment when the lower courts applied the *Departure-from-Doctrine*²⁷ element of the *Implied Trust Theory*, which requires the civil judiciary to determine whether actions of a church constituted *substantial departure* from the tenets of faith and practice existing at the time of the local churches' affiliation, such that the trust in favor of the general church must be declared to have terminated.

This determination has two parts. The civil court must first decide whether the challenged actions of the general church depart substantially from prior doctrine. In reaching such a decision, the court must make its own interpretation of the meaning of church doctrines. If the court should decide that a substantial departure has occurred, it must then determine whether the issue on which the general church has departed holds a place of such importance in the traditional theology as to require that the trust be terminated. A civil court can make this determination only after assessing the relative significance to the religion of the tenets from which departure was found. Thus, the *Departure-from-Doctrine* element of the Georgia implied trust theory required the civil court to determine matters at the very core of a religion – the interpretation of particular church doctrines and the importance of those doctrines to the religion. Plainly, the First Amendment forbids civil courts from playing such a role.

In *Presbyterian*, the United States Supreme Court made use of the contract theory but argued that there was implied consent. The *Watson v.*

26. *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed. 658 (1969). This case involved a church property dispute which arose when two local churches withdrew from a hierarchical general church organization. Under Georgia law, the right to the property previously used by the local churches was made to turn on a civil court jury decision as to whether the general church abandoned or departed from the tenets of faith and practice it held at the time the local churches affiliated with it. The question presented is whether the restraints of the First Amendment, as applied to the States through the Fourteenth Amendment, permit a civil court to award church property on the basis of the interpretation and significance the civil court assigns to aspects of church doctrine.

27. *Id.* at 450.

Jones decision of old, the constant quotation of which by other courts in expulsion cases seems to require setting forth its language at some length that

...whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them, in their application to the case before them...²⁸

has gained approbation in subsequent cases involving intra-organization disputes in religious organizations.²⁹

The same influx of reasoning has also been applied in local jurisprudence. The Philippine Supreme Court has held in a 1918 case, *U.S. v. Cañete*,³⁰ where the issue was the validity of the termination of membership of a member:

Persons who join churches ... voluntarily submit themselves to the jurisdiction of these bodies, and in matters of faith and individual conduct affecting their relations as members thereof subject themselves to the tribunals established by those bodies to pass upon such questions, and if aggrieved, by a decision against them, made in good faith by such judicatories they must seek their redress within the organization as provided by their laws or regulations.³¹

On non-constitutional grounds, the United States Supreme Court, deciding for the Philippine colony, recognized that there might be some circumstances in which *marginal civil court review* of ecclesiastical determinations would be appropriate. The scope of this review was

28. *Watson v. Jones*, 13 Wall. 679, 680 (1872).

29. See *Mormon Church v. U.S.*, 136 U.S. 1 (1890); *Maryland and Virginia Eldership of the Churches of God et al. v. The Church of God at Sharpsburg, Inc. et al.* 396 U.S. 367 (1970) (Actions by regional church against local churches and others to prevent local churches from withdrawing from regional church and to determine which of two factions should control local churches and their property and corporations); *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976); see also Note, *Judicial Intervention over the Use of Church Property*, HARV. L. REV. 1142 (1962); Michael William Galligan, Note, *Judicial Resolution of Intrachurch Disputes*, 83 COLUM. L. REV. 2007 (1983).

30. *U.S. v. Cañete*, 38 Phil. 253 (1918).

31. *Id.* at 261.

delineated in *Gonzalez v. Archbishop*.³² In this case, petitioner Gonzalez claimed the right to be appointed to a chaplaincy in the Roman Catholic Church under a will which provided that a member of his family receive that appointment. The Roman Catholic Archbishop of Manila, refused to appoint Gonzalez on the ground that he did not satisfy the qualifications established by Canon Law for that office. Gonzalez brought suit in the Court of First Instance of Manila for a judgment directing the Archbishop, among other things, to appoint him chaplain. The trial court entered such an order, but the Supreme Court of the Philippine Islands reversed and “absolved the Archbishop from the complaint.” The United States Supreme Court affirmed. Mr. Justice Brandeis, speaking for the Court, defined the civil court role in the following words: “In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive, because the parties in interest made them so by contract or otherwise.”³³

Thus, the First Amendment severely circumscribes the role that civil courts may play in resolving intra-organizational disputes, as in this case involving conflicting membership claims over church property. It is obvious, however, that not every civil court determination of intra-organizational disputes claimed by a religious organization to be purely religious jeopardizes values protected by the First Amendment. Civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property. And there are neutral principles of law, developed for use in all property disputes, which can be applied without “establishing” churches to which property is awarded.

This perspective veers away from the *Higher Plane Theory* and recognizes the contractual nature of membership in religious organizations. However, even if membership rights are contractual in nature, and parties may stipulate and agree on such, there is an imposing doctrine that one who voluntarily submits himself to the jurisdiction of the organization impliedly consents to the rules of procedure of such tribunal. This is in accordance with the *Implied Consent Doctrine* propounded by Justice Miller, though under the *Contract Theory*, the *Implied Consent Doctrine* waives the right of members to dispute the authority of the established tribunals of religious organizations regarding their membership.

32. *Gonzalez v. Archbishop of Manila*, 280 U.S. 1 (1929)

33. *Id.* at 16.

C. *Effect of Incorporation*

Where the church and the corporation set up to manage its business affairs exist as separate entities, membership in one is not equivalent to membership in the other. A decision has been laid down to the effect that incorporation which merely creates a new and separate entity entirely devoted to the management of the church's business affairs affords no additional remedy to a member expelled from the church.³⁴

The difference between unincorporated religious organizations and incorporated religious organizations is in the determination of the evidence of proof of rules that govern the procedures in termination. It has been held that the by-laws of an incorporated religious organization govern the rules of due process in termination. These by-laws are submitted with the Securities and Exchange Commission, which has custodial rights over the documents. The grounds and procedures stipulated are governing rules that civil courts regard as obligatory on members and the religious organization, such that if the by-laws of the religious corporation do not require due process in termination, the termination may even be held valid. As held in a recent case:

The Church by-law provision on expulsion, as phrased, may sound unusual and objectionable to petitioners as there is no requirement of prior notice to be given to an erring member before he can be expelled. But that is how peculiar the nature of a religious corporation is *vis-à-vis* an ordinary corporation organized for profit. It must be stressed that the basis of the relationship between a religious corporation and its members is the latter's absolute adherence to a *common religious or spiritual belief*. Once this basis ceases, membership in the religious corporation must also cease. Thus, generally, there is no room for dissension in a religious corporation. And where, as here, any member of a religious corporation is expelled from the membership for espousing doctrines and teachings contrary to that of his church, the established doctrine in this jurisdiction is that such action from the church authorities is *conclusive* upon the civil courts.³⁵

34. *Hundley v. Collins*, 131 Ala. 234, 32 So. 575, 90 Am. St. Rep. 33 (1901) (regarding the suspension of Christian or Disciples of Christ Church members); *Blount v. Sixteenth Street Baptist Church*, 206 Ala. 423, 90 So. 602 (1921) (regarding suspension and termination of incorporated Primitive and Missionary Baptist churches).

35. *Long v. Basa*, 366 SCRA 113, 125-26 (2001) (emphasis supplied).

Obviously recognizing the peculiarity of a religious corporation, the Corporation Code³⁶ leaves the matter of ecclesiastical discipline to the religious group concerned. This provision is in line with the *ratio* in the earlier conservative ruling in *Cañete*, that:

[I]t is the established doctrine of the ... courts that in matters purely ecclesiastical the decisions of the proper church tribunals are conclusive upon the civil tribunals. A church member who is expelled from membership by the church authorities, or a priest or minister who is by them deprived of his sacred office, *is without remedy in the civil courts, which will not inquire into the correctness of the decisions of the ecclesiastical tribunals.*³⁷

However, it must be emphasized that in incorporated religious organizations that submitted their by-laws – as opposed to unincorporated religious organizations that have not yet submitted their by-laws – proof of internal rules rests upon the by-laws as submitted. This is, of course, subject to evidence *aliunde*; nevertheless, the determination of the observance of the procedural rules is easier for incorporated religious organizations.

IV. DECISION IN THE CASE OF *TARUC V. DELA CRUZ*

The Supreme Court³⁸ affirmed the decision of the Court of Appeals that the expulsion or excommunication of members of a religious organization is a matter best left to the discretion of the officials, and the laws and canons of said organization, explicitly noting that "...it is not for the courts to exercise control over church authorities in the performance of their discretionary and official functions. Rather, it is for the members of religious

36. The Corporation Code of the Philippines, Batas Pambansa Blg. 68, § 91 (1980). Section 91 of the Corporation Code, which has been made explicitly applicable to the religious corporation by the second paragraph of Section 109 of the same Code states:

Termination of Membership. – Membership shall be terminated in the manner and for the causes provided in the articles of incorporation or the by-laws. Termination of membership shall have the effect of extinguishing all rights of a member in the corporation or in its property, unless otherwise provided in the articles of incorporation or the by-laws. (Emphasis supplied.)

37. *Cañete*, 38 Phil. at 260 (emphasis supplied).

38. Third Division, Justice Renato C. Corona was the *ponente*; concurring were Justices Artemio V. Panganiban and Angelina Sandoval-Gutierrez. Justice Conchita Carpio Morales was on leave. Justice Cancio C. Garcia took no part in the deliberations.

institutions/organizations to conform to just church regulations.”³⁹ The Supreme Court, however, was quick to point out that “...in disputes involving religious institutions or organizations, there is one area which the Court should not touch: doctrinal and disciplinary differences.”⁴⁰ Thus, the Court seemingly made a blanket generalization of a realm into which the courts cannot inquire: termination disputes in membership.

V. ANALYSIS

A. *Hammering the Conservative Principle of Implied Consent*

The decision of the Supreme Court was brief and direct, but it hammers down a principle that has hovered between the *Higher Plane* and the *Contract Theories* – the principle of *implied consent*. As explained by Justice Miller in this theorem: “...all who unite themselves to an ecclesiastical body do so with an implied consent to submit to the Church government and they are bound to submit to it,”⁴¹ the principle of implied consent recognizes the specialization of the ecclesiastical tribunals in determining membership disputes:

All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if anyone aggrieved by one of their decisions could appeal to the secular courts and have them reversed. *It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.* Nor do we see that justice would be likely promoted by submitting those decisions to review in the ordinary judicial tribunals. *Each of these large and influential bodies ... has a body of constitutional and ecclesiastical law of its own, to be found in their written organic laws, their books of discipline, in their collections of precedents, in their usage and customs, which as to each constitute a system of ecclesiastical law and religious faith that tasks the ablest minds to become familiar with.* It is not to be supposed that the judges of the civil courts can be as competent in the ecclesiastical law and religious faith of all these bodies as the ablest men in each are in reference to their own. It would therefore be an appeal from

39. *Taruc v. dela Cruz*, G.R. No. 144801, Mar. 10, 2005.

40. *Id.* at 4.

41. *Watson v. Jones*, 13 Wall. 679, 723 (1872).

the more learned tribunal in the law which should decide the case, to one which is less so.⁴²

The *Implied Consent Doctrine* referred to in the above quotation therefore overrides the forms of due process. Due process, both substantive and procedural, is an internal matter best left to ecclesiastical tribunals. As stated by the Court: "...the power of excluding from the church those allegedly unworthy of membership are unquestionably ecclesiastical matters which are outside the province of the civil courts."⁴³

B. Due Process as Exception to Implied Consent Doctrine

In determining whether a church is hierarchical in structure, such that a court must defer to the final authority within its hierarchy in matters involving church laws and regulations, the courts examined: (1) whether corporations in question are organized under the state religious corporations act governing the incorporation of religious societies that are subordinate parts of larger church organizations; (2) resolutions of the subordinate entity acknowledge the superiority of the superior entity; (3) by-laws of the lower authority have been submitted to the higher authority for approval; (4) the priest takes an oath to be obedient to the higher authority; and (5) provisions in the constitutions and by-laws of both the superior and subordinate levels suggest a hierarchical relationship.⁴⁴

In *Long v. Basa*,⁴⁵ the petitioners were member of a local religious organization that were removed from the roll of members of the church. The hierarchy of the organization was clearly set forth in their by-laws. The organization had their by-laws submitted to the Securities and Exchange Commission (SEC) who subsequently, was tasked of making the first factual determination over the termination dispute. The SEC was clearly with jurisdiction because the organization was an incorporated entity and was thus, subject to the rules of the SEC. The issue never reached determination of the substantive rules on termination. The Long Court ruled that religious corporations, particularly corporations sole, is possessed of a special nature

42. *Id.* at 680 (emphasis supplied).

43. *Taruc*, G.R. No. 144801 at 5 (citing *Fonacier v. Court of Appeals*, 96 Phil. 417 (1955)); see JOAQUIN BERNAS, *THE 1987 CONSTITUTION OF THE PHILIPPINES: A COMMENTARY* 359 (2003 ed.).

44. *Dixon v. Edwards*, 290 F.3d 699 (4th Cir. 2002).

45. *Long v. Basa*, 366 SCRA 113 (2001).

that their decisions are accorded great respect. In fact, as previously discussed in this Comment, the nature of the religious corporation even gives an excuse from compliance with the due process requirement in termination.

In *Long*, it was not required that there be *due process* in termination, where the by-laws of the religious corporation actually declared the non-necessity thereof. In the instant case, the issue was one clearly invoking the jurisdiction of the civil courts over decisions of the ecclesiastical tribunal. The Court in the instant case of *Taruc* was wise to state:

We would, however, like to comment on petitioners' claim that they were not heard before they were expelled from their church. The records show that Bishop de la Cruz pleaded with petitioners several times not to commit acts inimical to the best interests of PIC. They were also warned of the consequences of their actions, among them their expulsion/excommunication from PIC. Yet, these pleas and warnings fell on deaf ears and petitioners went ahead with their plans to defy their Bishop and foment hostility and disunity among the members of PIC in Socorro, Surigao del Norte. They should now take full responsibility for the chaos and dissension they caused.⁴⁶

Thus, the Court paid attention to the requirements of due process in termination. The real effects of the absence of notice and hearing were not discussed.

In *Austria v. NLRC*,⁴⁷ which involved a dispute regarding the propriety of the termination of a minister,⁴⁸ the Supreme Court delineated the exclusivity of ecclesiastical jurisdiction in the determination of *procedural* due process. The Court defined what *ecclesiastical affairs* are in nature and enumerated what are not within the realm of secular decision-making. In so doing, the Court also opened the ground for issues that may be left to the determination of the civil courts. The ruling of the Court in *Austria* was more incisive and was directed at qualifying the blanket generalization of ecclesiastical jurisdiction. To wit, the Court in *Austria* ruled that:

The case at bar does not concern an ecclesiastical or purely religious affair as to bar the State from taking cognizance of the same. An ecclesiastical affair is one that concerns doctrine, creed, or form of worship of the

46. *Taruc*, G.R. No. 144801 at 5.

47. *Austria v. NLRC*, 312 SCRA 411 (1999).

48. What was further contested was the authority of the NLRC to rule upon the validity of the procedural due process of notice and hearing as well as the determination of employer-employee relationship.

church, or the adoption and enforcement within a religious association of needful laws and regulations for the government of the membership, and the power of excluding from such associations those deemed unworthy of membership. Based on this definition, an ecclesiastical affair involves the relationship between the church and its members and relate to matters of faith, religious doctrines, worship and governance of the congregation. To be concrete, examples of this so-called ecclesiastical affairs to which the State cannot meddle are proceedings for excommunication, ordinations of religious ministers, administration of sacraments and other activities which attached religious significance.⁴⁹

There is a discussion in *Austria* of the rights of the religious organization to terminate a religious minister, but the Supreme Court distinguished from the doctrinal grounds of termination, which are substantive in nature, and the procedural due process aspect of the applicability of Labor Code provisions in termination of religious employees. There may be no question to the fact that the courts cannot review neither the grounds for the termination nor the basis for substantive termination, but the procedure for termination is something that the courts may look into.

The Court in *Austria* recognized the nature of the jurisdiction of ecclesiastical tribunals over ecclesiastical affairs and the *implied consent* doctrine; nevertheless, it also gave weight to the fact that there are secular issues that civil courts may inquire into and pass upon. A debilitating fact in the applicability of the *Austria* delineation *ratio* is that the petitioner was neither excommunicated nor expelled *per se* from the membership of the religious organization but was merely terminated from employment as minister.

In *Long v. Basa*, however, Justice Melo argued that due process is a constitutional proscription that embodies the notion of justice in a larger perspective than simply leaving the determination of disputes with ecclesiastical tribunals:⁵⁰

[t]he general rule of non-interference admits of certain exceptions: The civil courts can review proceedings undertaken by religious organizations and may interfere, so to speak, with the internal affairs thereof as law and justice so require, when the acts complained of contravene the basic law of the land and violate the civil rights of its members. More specifically, where there is fraud, oppression, or bad faith, and where the action of the leaders of the organization is capricious, arbitrary, and unjustly discriminatory, the

49. *Austria*, 312 SCRA at 421-22.

50. *Long*, 366 SCRA at 132-33.

civil courts may exercise judicial power. The courts will likewise exercise jurisdiction to grant relief in case property or civil rights are invaded, although it has also been held that involvement of property rights does not necessarily authorize judicial intervention, in the absence of arbitrariness, fraud, and collusion. Moreover, the courts will intervene where the proceedings in question *are violative of the laws of the society, or the law or the land, as by depriving a person of due process of law.*⁵¹

Justice Melo's dissenting opinion recognizes the fact that religious membership is also a contract between the organization and the member, or even a contract that is entered into among members. There may be *implied consent* to the ecclesiastical jurisdiction but the governing principle in expulsion should also be recognized as to fall under the requirement of due process of law. After all, membership in a religious congregation is also a part of life, liberty, and even property – to which the Constitution allows no deprivation except after due process of law. Being quasi-judicial and under the guidance of internal rules, there must be due process in excommunication proceedings.

It is a well-settled principle in law that what due process contemplates is freedom from arbitrariness; what it requires is fairness and justice, substance rather than the form being paramount. Though a formal or trial type hearing is not at all times and in all instances essential, the requirement of notice and hearing is overriding.⁵²

VI. CONCLUSION

The termination of membership from a religious organization is something that should not be treated lightly. The act of being alienated from a group or flock which one considered oneself to be a part, and the events that are borne by the tension of excommunication affects one's life. The right to life, liberty, and property may only be deprived with due process of law. Labor contracts are protected by law. Simple contracts are also protected by law. But religious membership as contract cannot be protected by law because the law protects Free Exercise and Non-Establishment. The proceedings of the church are quasi-judicial, and therefore those who complain, or give testimony, or act and vote, or pronounce the result, orally or in writing, acting in good faith, and within the scope of the authority conferred by this concept of limited jurisdiction, and not falsely or colorably, making such

51. *Id.* at 133.

52. *Id.*

proceedings a pretense for covering an intended scandal, are protected by law.⁵³

Judicial intervention in disputes arising from termination and intra-organization controversies as presented above are generally and almost absolutely disallowed. To allow the members to petition for the review of the validity of their termination from the religious organization would allow civil courts to intrude into ecclesiastical affairs. The proposed exceptions such as the constitutionally overriding principle of due process has never been applied except in a dissenting opinion. The sole issue raised in the case of *Taruc v. Dela Cruz*⁵⁴ – can the civil court actually intervene in an intra-organizational dispute of the religious congregation – where the answer of the Supreme Court is one that respected ecclesiastical tribunals, was a call for action on an issue that was not fully threshed out.

The decision of the Supreme Court was conservative, but the decision that the Court gave in this case held more questions than answers for the inquiring legal academic: can there be instances where intra-organizational disputes warrant civil court intervention? Is there a blanket protection for religious organizations under the First Amendment metaphors of the Freedom and Non-Establishment Clauses? Can the civil courts rightfully rule that in a particular case, jurisdiction is proper not only because of membership rights under the law but of equity as well? What if there was a decision rendered to the effect that there was invalid termination; can the Courts enforce such judgment against the religious organization and compel reinstatement to membership? There are many other questions which the civil courts may only pass upon after they have ruled that they can, in law and in fact, take jurisdiction over the case.

If the *Higher Plane Theory* is the starting point for decision-making in excommunication cases, there might not be any exception to the general rule of non-interference. It is only with the more liberal *Contract Theory* and the *Implied Consent Doctrine* that the civil courts may find there are also other considerations that should not prevent a court from determining the question whether an alleged suspension or expulsion was ordered by an authority having the power to take such action, and whether the proper procedure by the hierarchical authority was followed. The existence of such power within the organization should be passed upon by the court, as well as the questions whether the bodies exercising it and the tribunals undertaking

53. *Id.* at 261-62.

54. *Taruc*, G.R. No. 144801, Mar. 10, 2005.

to review such exercise were properly authorized and properly constituted, at the very least, to determine whether there was proper obeisance to the *contract*.