Filipino Legal Philosophy and its Essential Natural Law Content (A Concurrence in the Absolute with Aquinas, Finnis, and Fuller)

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Every time Philippine society is besieged with some raging controversy, say the issue of unabated logging in the forest lands or the hopelessly incessant increase in power rates, the search for a solution will almost always involve an appeal to law. Is there any law applicable on the matter? If none, what law should be passed to adequately solve the problem?

It comes as no surprise, however, that whether potential or already in existence, any law presented as a solution to any given problem, will be, both in form and in theory, a virtual clone of Western legislation. Because of the country's colonial past, this approach is quite forgivable. Besides, occidental law and jurisprudence are not wanting in universal dicta which essentially require application in Philippine local laws.

Still, it will be extremely beneficial, if not downright imperative, that any rule presented as a law to address a particular social, political and/or economic issue is seen primarily from uniquely Filipino eyes. This Essay therefore seeks to revisit the Filipino philosophy of law and affirm it as an indispensable basis for Philippine law and jurisprudence. Given the said philosophy's strong and indispensable moral content, this Essay will link up Filipino legal theory with classical natural law theory, as well as with John Finnis' *natural law theory* and Lon L. Fuller's *Internal Morality of the Law*.[1]

Furthermore, there will be a discussion on the anti-Filipino and anti-human nature of relativism and legal positivism. And, recognizing the dangers posed by these philosophies to the Philippine legal landscape and

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1. LON. L. FULLER, THE MORALITY OF LAW (1969).

society as a whole, a brief critique will also be made on the inherently objectionable features of a bill presently pending with the House of Representatives, the so-called "Responsible Parenthood and Population Act."[2] With this, the author hopes to transcend the limits necessarily wrought by a purely parochial view of the law and thus, elevate Filipino legal understanding into the realm of the universal Good.

Filipino Legal Thinking

The Filipino is no stranger to the *right-duty* dichotomy of which the Western legal mind is most acquainted.[3] However, while the Westerner is *right-oriented* – hence, the notions of right to liberty and the right to pursuit of happiness enshrined in Western legal systems, the Filipino is *duty-oriented*.[4] The Filipino approaches both public and private relationships in search of obligations – who has them and to whom, and what the sanctions therefore are. Thus, peace pacts amongst minorities stress on duties and provide for strict sanctions in case of breach.[5] In another case, a bishop observed that in their talks, lay leaders emphasized on the obligation of doing good and put lesser stress on doctrinal motivation.[6] Significantly, in Capiz Province, law is referred to as *kasuguan*. This stems from the root word *sugo*, which in the dialect of that place means *command*.[7]

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2. An Act Providing for an Integrated and Comprehensive National Policy on Responsible Parenthood, Population Management and Human Development, Creating a Responsible Parenthood and Population Management Council, and for Other Purposes [RESPONSIBLE PARENTHOOD AND POPULATION ACT OF 2005], House Bill No. 3773 (2005).
3. Simply put, for there to be a right there must be a corresponding duty. This dichotomy was one of the Four Basic Legal Relations described and analyzed by renowned legal thinker Wesley Newcomb Hohfeld (the other three were *no-right-privilege*, *power-liability*, and *disability-immunity*). *See* Corbin, *Legal Analysis and Terminology*, 29 YALE L.J. 163 (1919); *See also* D. KNOWLES, POLITICAL PHILOSOPHY (2001) (regarding the Chapter on *Rights*).
4. *See* Leonardo N. Mercado, *Philosophy of Law*, *in* ELEMENTS OF FILIPINO PHILOSOPHY 148-49 (1993). (This is not to say, however, that the subject's basic orientation prevents him from recognizing the importance of the other member of the dichotomy. Being right or duty-oriented, as the case may be, essentially means a matter of stress or emphasis.).
5. *Id.* at 149, citing Bienvenido Balweg, *An Insight into the Contents of the Bodong Pagta*, *in* THE RESEARCHER (1968).
6. *Id.*
7. As will be discussed in this Essay, while the Filipino views the law as an imperative, its binding force for him primarily comes from within and not from any external legal entity.

Another aspect of the Filipino's idea of law is *interiority*. The Filipino believes in the innate goodness of the human person and that it is from this innate goodness that responsibility springs.[8] It is therefore no surprise that Filipinos are often criticized for not paying much attention to the fine print of written contracts or of enacted law. A more pedestrian example is the tendency *not to read* printed directions, even if these are plastered in large letters on a wall. The Filipino would prefer to talk to someone to get instructions rather than read a pamphlet or a map. Unlike the Westerner, exterior contracts and written laws do not squarely touch the Filipino. Thus, Mindanao's Tirurays have been observed to follow "a common sense which directs role behavior and interpersonal attitude ... respectful of the sensitivities of others."[9] For them, legal codification is unnecessary and legal validity simply resides in observed moral rules.[10]

What is law to the Filipino primarily comes from *within*. This contrasts with mainstream occidental legal theory which requires an authority from without the person to impose the law. Relevant here is legal philosopher John Austin's *command theory of law*. This theory defines law as "the order of a sovereign backed by a threat of sanction in case of non-compliance."[11] Mr. Austin's forerunner, Jeremy Bentham, provided a more expanded definition:

> an assemblage of signs declarative of a volition conceived or adopted by a sovereign in a state, concerning the conduct to be observed ... by ... persons, who ... are or are supposed to be subject to his power, such volition trusting for its accomplishment to the expectation of certain events ... the prospect of which it is intended should act as a motive upon those whose conduct is in question.[12]

And yet, these positivists are not alone. While poles apart from legal positivism in many respects, the natural law school of thought similarly betrays an exterior concept of human law. Thomas Aquinas defines *law* as "[a]n ordinance of reason for the common good, made by him who has care

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8. *Mercado*, *supra* note 4, at 150.

9. *Id.* at 150-51.

10. *Id.*, citing Stuart Shlegel, *Tiruray Justice*, *in* TRADITIONAL LAW & MORALITY (1970).

11. Coleman, J. & B. Leiter, *Legal Positivism*, *in* A COMPANION TO PHILOSOPHY OF LAW & LEGAL THEORY 244 (D. Patterson ed., 1999).

12. MCCOUBREY, H. & N. WHITE, TEXTBOOK ON JURISPRUDENCE 13-14 (2d ed. 1992), citing J. BENTHAM, OF LAWS IN GENERAL (H.L.A. Hart ed., 1973).

of the community, and promulgated."[13] For the Western mind, law must necessarily come from some power or authority, whether it be a king, a parliament, or a council of elders.

Quite ironically, while the Filipino views law as a matter primarily of the heart, the Filipino always sees the law in the concrete. This is the third aspect of Philippine legal theory. Instead of relying on abstract premises like the *vinculum* of Roman law[14] or the esoteric *aggregatio mentium*[15] of common law, the Filipino wants the law *humanized*[16] or in the Tagalog vernacular, *taong-tao*. For the Filipino, law is experiential, an essential part of daily living, a technique by which he "harmon[izes] with himself, with his fellowmen, and with nature."[17] The Filipino's inherent disdain for external and abstract legal concepts – though these may be in fact codified and/or reduced into written jurisprudence – is typified in Agaton P. Pal's study on a Philippine *barrio*:

> In the concept of the barrio people, leaders ... are good if they put joints to the law in order to make it flexible; eyes to the law with which each can be judged on his unique merits; ears to the law which will enable it to hear the cries of the wife and children who is to be punished; and a heart to the law which will enable it to feel the anxieties and sorrows of the persons who are castigated.[18]

Corollary to the Filipino's literally human notion of things legal is an utterly *personality-oriented* approach to the making and, most especially, enforcement of the law. This is what the author now proposes as a fourth attribute of the Filipino theory of law.[19] Hence, it is natural and common for *barangay*[20] residents to run to their *punong-barangay*, also called *barangay* captain or in the vernacular, *kapitan*, for assistance in case of any private

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13. *Cf.* SUMMA THEOLOGIAE, I-II, Q. 90, art. 4, *cited in* 2 FAITH SEEKING UNDERSTANDING 83 (C. Belmonte ed., 1997).
14. *Mercado*, *supra* note 4, at 152.
15. *Cf.* Reniger v. Fogosa, 75 Eng. Rep. 1 (1551), *cited in* A. Farnsworth, *Meaning in Contracts*, 76 YALE L.J. 939 (1967). (Though palpably straightforward, the legal concept of *meeting of the minds* has confounded legal theorists through the centuries. The conundrum then and now is *on what* exactly did the minds meet?).
16. Agaton P. Pal, *A Philippine Barrio*, U.M. J. OF EAST ASIATIC STUDIES 5 (1956).
17. *See Mercado*, *supra* note 4.
18. *See Pal*, *supra* note 16.
19. The first three – being *duty-oriented*, *predominantly interior*, and *concrete* – have been supplied by *Mercado*, *supra* note 4.
20. This is the most basic political unit in the Philippines (*cf.* An Act Providing for a Local Government Code of 1991 [LOCAL GOVERNMENT CODE], Republic Act No. 7160 (1992)).

conflict or disruption of public order. The revered *kapitan*, elected as leader by his co-villagers, is legal authority personified. His word is essentially law, and to be in his good graces is strongly motivational. Thus, in many a conflict mediated by the *punong-barangay*, the appeal to shame – *"mahiya naman po kayo kay Kapitan"*[21] – has proven to be an effective technique for submission. Understandably, today, the *punong-barangay* wields in his jurisdiction all the three essential powers of government: executive – as he shares in the responsibility of enforcing all laws, legislative – as he participates in the enactment of *barangay* ordinances and even the creation of sources of revenue, and judicial – to the extent that he determines the resolution of conflicts under the *barangay* justice system.[22]

There is perhaps no better showcase of personality-oriented law than the Filipino's regard of any incumbent President as the embodiment of government and legal order. Whether it is about new tax measures, or rising criminality, or the enforcement of a continuous trial system, the Filipino second-naturally points to the "Administration of So-and-So" when making a critique, sounding a complaint, or heaping some praise. It is not the *institution*, but it is the *"gobyerno ni …"*[23] that is talked about. This, as if the two other branches of government are not co-equals but merely adjuncts or extensions of the President.

Be that as it may, the author proposes a fifth, and undoubtedly the most important, element of Philippine legal philosophy. The Filipino views law as *inseparable from morality*.

Law Inseparable from Morality

To understand *morality*,[24] one must first know its subject: *human acts*. Unlike mere *acts of man*,[25] which are involuntary, *human acts* are those which are

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21. Translated in English: "*Don't you feel embarrassed before our captain?*"

22. *See* LOCAL GOVERNMENT CODE, art. 408, *et. seq.*

23. Translated in English: "*The government of…*"

24. NABOR-NERY & NERY, SR., ETHICS 7 (2003). (Morality is taken from the Latin *mos*, pl. *mores*. In Roman language and culture, this term is synonymous with the Greek word *ethos*, which refers to *custom, habit, or character.*).

25. *Acts of man* are those acts which man performs without being their master through his intellect and will. (*Cf.* SUMMA THEOLOGIAE, I-II, Q. 90, art. 40, *cited in* 2 FAITH SEEKING UNDERSTANDING, *supra* note 13. (Examples are natural acts of vegetative and sense faculties (digestion, beating of the heart,

freely chosen by man in consequence of a judgment of conscience. They are the product of man's exercise of both the *intellect* – the ability to grasp, recognize, and appreciate truth and goodness, as well as to use his reason in the process, and the *will* – the ability to choose among options to promote or disregard truth and goodness.[26]

Morality is the quality or condition of a human act as to *whether it is good or evil*.[27] An act will be good or evil depending on whether or not it leads man to true happiness, the final and self-sufficient end of all his actions.[28] One good definition of happiness is that it is "the active tranquility of the soul that has found its fullness, the satisfaction of its yearning for love and truth."[29] Humankind's true happiness, of course, lies in God.[30]

The author submits that a consideration of God is *indispensable* in any study of Philippine law, hence the repugnance of any attempt to lock out the divine whenever any law or proposed legislation is being evaluated, as if the Creator can be confined in a cage or placed in some holding area. The supreme law of the land, at its very beginning, "implore[es] the aid of Almighty God"[31] to help the Filipino people; and, in connection with the promulgation thereof, to build a just and humane society and to establish a government that shall embody Filipino ideals, promote the common good, and others.[32] Belief in the Almighty and submission to the Divine Law are thus willed in sovereignty by the Filipino people.[33]

The Filipino regards the law essentially as the *expression* of what is good and simultaneously, a *means to achieve* what is good. This perception is second nature. In this regard, the author recalls an interview he had with a *barangay*

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etc.), acts of persons without the use of reason (such as those by insane persons), quick and nearly automatic reactions, acts of people asleep or under wholly the influence of hypnosis or drugs, and acts performed under serious physical or moral violence.)

26. NABOR-NERY & NERY, SR., *supra* note 24, at 4.

27. *See* 2 FAITH SEEKING UNDERSTANDING, *supra* note 13, at 34; *see also* NABOR-NERY & NERY, SR., *supra* note 24, at 7.

28. *See* Aristotle, *The Nicomachean Ethics*, *in* ETHICS: THEORY AND CONTEMPORARY ISSUES 96 (MacKinnion ed., 1995).

29. *See* Antonio Orozco, *Look Up to Mary*, *in* EDICIONES RIALP (1989).

30. *Cf.* 2 FAITH SEEKING UNDERSTANDING, *supra* note 13, at 34.

31. PHIL. CONST., Preamble.

32. PHIL. CONST., Preamble.

33. J. BERNAS, S.J., THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 4 (2003).

captain of Bating, a far-flung *barrio* of Mambusao town in Capiz.[34] Speaking in the local dialect, the said local official confidently expressed that *"ka-imaw sang batas ang moralidad"* (the law and morality go together). In enforcing the law in his locality, and most especially in the implementation of the *barangay* justice system,[35] this local chieftain believed that what gave real power to his office was the moral foundation of the law. Without this moral foundation, no one can be trusted with following any law or any undertaking arrived at by way of settlement of a *barangay*-level dispute. In other words, it is the moral element of the law which gives it authority – that attribute which enables it "to require the obedience of others regardless of whether those other persons are prepared to find the particular order or rule enjoined upon them as acceptable or desirable, or not."[36]

On the other hand, the *barangay captain* of nearby Buri-as, also in Mambusao town, mentioned that the moral element in the law is what gives it its compulsory character.[37] The said official explained that instilling fear of physical harm was not enough. It was *morality* that constituted the assurance that the law will be followed. Illustrating, in particular, his difficult task of mediating *barangay*-level disputes, the *barangay* chieftain of another Capiz barrio, Bula, saw the moral foundation of the law as the key to stability in conflict resolution.[38] This *barangay* captain had to deal with various parties, each having his own respective agenda in mind. A good number of them enter the mediation proceedings with pessimism, bloated egos, and at times, even in bad faith. According to the good captain, explaining the possible legal consequences to the parties was not enough. What made the parties sit down and listen, and then try their best to arrive at a settlement, was their regard for the law's intrinsic rightness based on morality.[39]

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34. Interview with Hon. Fredelino Gumbas, *Barangay* Captain of *Barangay* Bating, Mambusao, Capiz (Nov. 24, 2004). Capiz is a province in the Philippines' Region VI or the Western Visayas Region.

35. LOCAL GOVERNMENT CODE, *supra* note 20, §§ 399-422 (Under the Philippine *barangay* justice system, selected civil and criminal cases, which ordinarily would find their way right away in court and/or the prosecutor's office, are required to be mediated first at the *barangay* level.).

36. Dennis Lloyd, *Law and Force*, *in* THE IDEA OF LAW 27-28 (1981).

37. Interview with *Barangay* Captain Rosalia Loja of *Barangay* Buri-as, Mambusao, Capiz (Nov. 2004).

38. Interview with *Barangay* Captain Fernando Golez of *Barangay* Bula, Mambusao, Capiz (Nov. 2004).

39. *Lloyd*, *supra* note 36, at 29.

Significantly, the abovementioned *barangay* officials are not alone in their view. In an interview conducted by freshman students of the Ateneo de Manila School of Law,[40] a street peddler in Manila's Luneta Park referred to the union between law and morality as an *imperative*.[41] In a similar dialogue, a member of a multi-purpose cooperative echoed the said notion and reasoned that the "law is for the people."[42] Though cryptic, this statement easily means that law must be ordered toward the good of everybody, hence its essentially moral dimension. More emphatic in this connection was the remark of a Metro Manila police officer. According to him, law and morality must always coincide and, because of this, the consideration of a law's moral quality greatly outweighs any consideration of its practicality.[43]

Union of Law and Morality in Natural Law

Quite obviously, none of those interviewed profess to be legal philosophers. Chances are, they have never actually read Thomas Aquinas' seminal *Summa Theologiae*, or reflected on John Finnis' notion of *basic goods* as a guiding point for law.[44] Their common belief in the union of law and morality, however, resoundingly confirms natural law as the essential foundation for any human law – Filipino law included.

Natural law is law in its purest form. According to Marcus Tullius Cicero, *law* is "the highest reason, implanted in Nature, which commands what ought to be done and forbids the opposite."[45] In this connection,

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40. These interviews were conducted in partial fulfillment of the requirements for the course on Legal Technique & Logic, 2nd Semester, Ateneo de Manila School of Law, School Year 2004-2005.

41. Interview by Roman Esguerra, Kathleen Phyllis Guerrero, Tanya Faye Ramiro, John Adelbert Reyes, Marie Joy Ponsaran, Christianne Grace Salonga, and Ronald Tiu with a certain "Mang Carlo" (2005). (The students quoted the said vendor, who has been selling sunglasses and umbrellas by the roadside for around seven years, as saying that he was a *professional* debater.).

42. Interview by Timmy Alonzo, Dianne Baysac, Agatha Cruz, Cara De Guzman, May De Leon, Gail Maderazo, and Philip Uy with Mr. Pancho Payos (2005).

43. Interview by Adrianne May Alazas, Anna Gayle Barin, Katrina Clemente, Walter Mactal, Lovely Matillano, Rafael Antonio Meer, and John Martin Sese with PO1 Rex Pascua, Philippine National Police (2005).

44. *See* Brian Brix, *Natural Law Theory, in* A COMPANION TO PHILOSOPHY OF LAW & LEGAL THEORY 225-26, 228-30 (D. Patterson ed., 1999). *See also* J. FINNIS, NATURAL LAW AND NATURAL RIGHTS (1980).

45. *Id.*

"right is based, not upon men's opinions, but upon Nature."[46] Stated another way:

> [t]rue law is right reason in agreement with nature; it is of universal application; unchanging and everlasting; it summons to duty by its commands; and averts from wrongdoing by its prohibitions. And it does not lay its commands or prohibitions upon good men in vain, though neither have any effect on the wicked. It is a sin to try to alter this law, nor is it allowable to attempt to repeal any part of it, and it is impossible to abolish it entirely. We cannot be freed from its obligations by senate or people, and we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now or in the future, but one eternal and unchangeable law will be valid for all nations and all times...."[47]

Cicero further states:

> What is right and true is also eternal, and does not begin or end with written statutes.... From this point of view it can be readily understood that those who formulated wicked and unjust statutes for nations, thereby breaking their promises and agreements, put into effect anything but "laws." It may thus be clear that in the very definition of the term "law" there inheres the idea and principle of choosing what is just and true.... Therefore Law is the distinction between things just and unjust ... and in conformity to nature's standard are framed those human laws which inflict punishment upon the wicked but defend and protect the good.[48]

In making morality the foundation for any man-made law, the mentioned interviewees perceived what the likes of Cicero, Aquinas, and, in the realm of common law, Sir Edward Coke, earlier saw: morality is actually governed by a higher law built into the nature of man. This is the Natural Law, which man can know by the use of reason.[49]

Natural Law, according to Aquinas, is a law of reason promulgated by God in man's nature, whereby he can discern how he should act. It is a participation in the Eternal Reason – the very Idea of the government of the

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46. Cicero, *Laws*, *in* GREAT LEGAL PHILOSOPHERS (C. Morris ed., 1959), *cited in* CHARLES RICE, 50 QUESTIONS ON THE NATURAL LAW (WHAT IT IS AND WHY WE NEED IT) 32 (1996).

47. *Brix*, *supra* note 44, at 224, citing Cicero's REPUBLIC.

48. *Cicero*, *supra* note 46, at 51.

49. RICE, *supra* note 46, at 27.

universe in God as its Ruler, which enables man to achieve his final and proper end.[50]

For Sir Edward Coke, "when an Act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such Act to be void."[51] That which resides in the common law is 'the law of nature,' in other words that which God, at the time of creation, infused into the heart of man for his preservation and direction.[52]

Man has been gifted "with the light of natural reason [to] discern good from evil."[53] He is capacitated to know and judge the moral quality of human acts and omissions. Consequently, in evaluating societal rules, man must look at the law engraved in his heart. This law which defines what is good and what is evil is called *natural* "not because it refers to the nature of irrational beings but because the reason which promulgates it is proper to human nature."[54] The late Pope John Paul II comprehensively explained the premise for such law:

> [Natural Law] refers to man's proper and primordial nature, the nature of the human person, which is the person himself in the unity of soul and body, in the unity of his spiritual and biological inclinations and of all the other specific characteristics necessary for the pursuit of his end. The natural moral law expresses and lays down the purposes, rights and duties, which are based upon the bodily and spiritual nature of the human person. Therefore this law cannot be thought of as simply a set of norms on the biological level; rather it must be defined as the rational order whereby man is called by the Creator to direct and regulate his life and actions...."[55]

Natural Law, being 'inscribed in the rational nature of the person,' is necessarily universal and immutable.[56] It is "prior to all man-made laws and is the measure of their validity."[57] Being ordered toward all that is good, as

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50. *Id.* at 44-45; *see also* SUMMA THEOLOGIAE, I, II, Q. 90, art. 40, *quoted in* ST. THOMAS AQUINAS: ON LAW, MORALITY, AND POLITICS 16-17 (Baumgarth, William, et. al., eds., 1988).

51. *Dr. Bonham's Case*, 8 Coke's Rep. 107 (a), 7 Eng. Rep. 638, 652 (1610), *cited in* RICE, *supra* note 46, at 32.

52. *Calvin's Case*, 8 Coke's Rep. 113 (b), 118 (a), 77 Eng. Rep. 377, 392 (1610), *cited in* RICE, *supra* note 46, at 33. (Sir Edward Coke also called this law the moral law as well as the *lex aeterna*.).

53. Pope John Paul II, *Freedom and Natural Lau*, *in* VERITATIS SPLENDOR.

54. *Id.*

55. *Id.*

56. *Id.*

57. Pope John Paul II, *Natural Law as Standard for Human Legislation*, X DOCUMENTATION SERVICE 1, 11 (Jan. 1997).

well as toward the Supreme Good, this law essentially requires that "human dignity be assured in different areas of life."[58] This very well serves as the touchtone for authentic human rights. The workings of this law, from the perspective of the human person, are summarized thus:

> [Natural Law] makes itself felt to all beings endowed with reason and living in history. In order to perfect himself in his specific order, the person must do good and avoid evil, be concerned for the transmission and preservation of life, refine and develop the riches of the material world, cultivate social life, seek truth, practice good, and contemplate beauty.[59]

The universality and immutability of the indications contained in what has been aptly described by Professor Charles Rice as the "manufacturer's directions [or manual]"[60] necessarily define certain human acts or omissions the objects of which are intrinsically and irreversibly evil, or, in other words, not for the ultimate good of every human being. Examples of which are:

> genocide, slavery, indiscriminate killing of civilians in war, murder, euthanasia, torture, arbitrary imprisonment, prostitution, degrading working conditions which treat the workers as mere instruments of production, sexual perversion, drunkenness, theft, deliberate retention of goods lent, tax fraud, business fraud, unjust wages, forcing up prices by trading on the ignorance and hardship of others, misappropriation and private use of private property, work badly done, [and] forgery of checks and invoices.[61]

Other examples are abortion, artificial contraception,[62] child abuse, and any human arrangement destructive of marriage and the family [such as divorce].

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58. Pope John Paul II, Address to Address to Catholic Lawyers (Jan. 11, 1991); *cf.* *L'Osservatore Romano*, 4.III.1991, *cited in* X DOCUMENTATION SERVICE, *supra* note 57, at 12.

59. *See Pope John Paul II*, *supra* note 53.

60. RICE, *supra* note 46, at 27-29. (Charles Rice, as of the writing of his 50 QUESTIONS ON THE NATURAL LAW, is a professor of the Jurisprudence of St. Thomas Aquinas at the Notre Dame Law School, United States. The insertion of the word *manual* is the author's own making.)

61. Simon Travers, *Natural Law in the Common Law System*, *in* PERSPECTIVE (Oct. 1994), *rep*. *in* X DOCUMENTATION SERVICE, *supra* note 57.

62. "Artificial contraception attacks the total gift of a man and a woman to one another. It manipulates and degrades human sexuality. It is against the familial communion of person(s). It is … against human dignity. [It] deliberately and

Affirmation in the Legal Philosophies of John Finnis and Lon Fuller

That the human person is naturally oriented toward what is good is confirmed in modern-day legal philosopher John Finnis' theory of natural law.[63] For Finnis, there are a number of *distinct* but *equally valuable* intrinsic goods – those valued for their own sake. Calling them *basic goods*, Finnis lists the following: "life [and health], knowledge, play, aesthetic experience, sociability [or friendship], practicable reasonableness, and religion."[64] The said philosopher, however, maintains that one cannot distinguish between right and wrong by just looking at these basic goods. Morality comes in when people make choices from an array of goods.

In making these choices, Finnis offers certain principles for the actor's guidance, which principles essentially have a moral character. One principle is "that one may never choose to destroy, damage, or impede a basic good regardless of the benefit that one believes will come from doing so.... [I]n other words, the end never justifies the means when the chosen means entails intending to harm a basic good."[65] Others are: one should form a rational plan of life; have no arbitrary preferences among persons; foster the common good; and have no arbitrary preferences among the basic goods.[66]

Be that as it may, Finnis somehow echoes Aquinas on the binding effect of any man-made law: "one has the obligation to obey just laws; [and with respect to those which are unjust, one can comply with them] only to the extent that [they are] compatible with moral norms and necessary to uphold otherwise just institutions."[67]

Easily, the partnership between morality and the law essentially requires recourse to *fundamental, objective, and unchangeable norms* that will guide human beings in their earthly pilgrimage. There is an essential regard for the *absolute* and an inescapable movement toward *perfection*. These attributes are clear in the thoughts of another modern-day legal theorist by the name of

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intentionally frustrates the procreative aspect in sexual intercourse...." (*Cf.* NABOR-NERY & NERY, SR., *supra* note 24, at 77).

63. John Finnis holds the Biolchini Family Professorial Chair at the Notre Dame Law School, United States. A noted moral philosopher, Mr. Finnis is acclaimed as the natural law theorist. He teaches Jurisprudence as well as the Social, Political and Legal Theory of Thomas Aquinas.

64. *See* J. FINNIS, *supra* note 44, *cited in Brix*, *supra* note 44 (Brix prudently informs the reader, however, that this list "changed somewhat in later articles.").

65. *Brix*, *supra* note 44, at 229.

66. *Id.* at 230.

67. *Id.*

Lon L. Fuller.[68] Fuller prefaces his analysis on the nature and operation of the law on the so-called Two Moralities – the *morality of aspiration* and the *morality of duty*.

The *morality of aspiration* is "the morality of the Good Life, of excellence, of the fullest realization of human powers."[69] "[E]xemplified in Greek philosophy,"[70] this morality is not so much concerned with the right-wrong and claim-duty dichotomies as much as it focuses on "proper and fitting conduct, conduct such as beseems a human being functioning at his best."[71] On the other hand, the *morality of duty* "starts at the bottom of human achievements."[72] "It lays down the basic rules without which an ordered society is impossible, or without which an ordered society directed toward certain specific goals must fail of its mark."[73] "It is the morality of the Old Testament and the Ten Commandments,"[74] speaking frequently of '*thou shalt not*' compared to '*thou shalt.*' Instead of condemning men "for failing to embrace opportunities for the fullest realization of their powers,"[75] this morality "condemns them for failing to respect the basic requirements of social living."[76]

Fuller then proceeds to explain what he calls the *internal morality of law*, which embraces the Two Moralities. This internal morality also connotes *an invisible pointer*, as it were, which "[marks] the dividing line where the

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68. Lon L. Fuller (1902 -1978) was a renowned legal philosopher and was responsible for the seminal book MORALITY OF THE LAW, *supra* note 1. He was a Carter Professor of General Jurisprudence at the Harvard Law School.

69. FULLER, *supra* note 1, at 5.

70. *Id.*

71. *Id.*, citing JONES, THE LAW AND LEGAL THEORY OF THE GREEKS 151 (1956).

72. *See* FULLER, *supra* note 1.

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.* at 5-6 (If the morality of duty is Old Testament morality, the morality of aspiration could very well be part and parcel of New Testament morality. In this connection, the author recalls the parable of the Rich Man and (the poor man) Lazarus (Luke 16: 19- 31). The rich man did nothing positively wrong to Lazarus. He did not mock him or hurt him physically. However, by omitting to take note of Lazarus' plight and to care for the latter, the rich man missed the opportunity to realize his full potential for charity and thus, for holiness.).

pressure of duty leaves off and the challenge of excellence begins."[77] In gist, this consisted of a series of requirements that any system of rules must meet, or at least substantially meet, in order to merit the title of "law." Eight in all, these requirements were: (a) generality – that there are indeed rules to guide human conduct; (b) promulgation – that subjects of the law know the standards to which they are being held; (c) minimal retro-active rule-making and application; (d) clarity; (e) consistency, meaning not contradictory; (f) undemanding of the impossible – must not require conduct beyond the ability of those affected; (g) constancy through time – not too frequent changes in the law; and (h) congruence between official action (actual administration) and declared rule (laws as announced).[78]

Linked, as they are, to the Two Moralities, these eight requirements should not be dismissed as merely procedural indications for the making and application of laws. They actually point to fairness or, to use a stronger term, justice. Justice is "a habit whereby a man renders to each one his due by a constant and perpetual will."[79] Justice denotes, says Aquinas, "a kind of equality."[80]

Almost reprising Fuller's *desiderata*,[81] professor of jurisprudence Dennis Lloyd wrote that in order to have *formal* justice[82] a legal system must have the following essential features: the existence of rules, generality, and impartial application.[83] Prof. Lloyd, of course, explains that formal justice is not enough. The law must have, in the first place, a just content; in other words, it must "conform to some criteria of rightness which repose on values exterior to justice itself in the sense that no merely formal idea of justice can dictate ... the basis upon which [one is] to prefer one set of values to another."[84] Secondly, the rigour of the law may have to be tempered at

77. *Id.* at 42 (The author notes, however, that the term *excellence* could very well be a restrained expression of what someone like Aquinas or even Fuller would refer to as *perfection*. Perhaps, Fuller found any term more supernatural than excellence as *too religious* and hence, would present too obvious a turn-off to legal positivists that he would debate with.).

78. *See id.* at 33-91; *see also Brix*, *supra* note 44, at 232.

79. SUMMA THEOLOGIAE, II-II, Q. 58, art. 1; *see* FULLER, *supra* note 1, at 145.

80. SUMMA THEOLOGIAE, II-II, Q. 57, art. 1; *see* FULLER, *supra* note 1, at 137.

81. This is actually how Fuller several times referred to the eight requirements in THE MORALITY OF LAW, *supra* note 1.

82. By formal justice, Prof. Lloyd meant *treating like as like*. (*Cf. Lloyd*, *supra* note 36, at 124.)

83. *Lloyd*, *supra* note 36, at 126.

84. *Id.* at 133.

times with equity or, more poignantly, "administered with mercy."[85] These subsequent considerations fall within the realm of *substantive* justice.[86]

It must be asked, however, "*For what must justice be enough?*" It must be enough to attain what is good – both as an end in the here and now, and as a final end. After all, "justice, whatever its precise meaning may be, is itself a moral value, one of the aims or purposes which man sets himself in order to attain the good life."[87] And it is here that the Two Moralities come in full circle. It is at this point that they connect with the Good to which man is ordered under Aquinas' thought. This unity, quite significantly, echoes the unified notion of law perceived by the Filipino. There is no real law independent of the natural moral law. Sad to say, this universal and immutable, and yet at the same time very Filipino, understanding of the law has been, and still continues to be, under siege by legal positivism and the latter's life-source: relativism.

Relativism and Legal Positivism: Anti-Human and Anti-Filipino Scourges in the Legal Realm

Legal positivism has been defined as "the simple contention that it is no sense a necessary truth that laws reproduce or satisfy certain demands of morality, though in fact they often do."[88] Added to this definition is the core belief that what counts as law in a particular society is simply a matter of "social fact or convention."[89]

Basically, it is nothing but "lawmaking by mere will."[90] Legal positivism finds its roots in the philosophy of the Enlightenment, which denied with much scorn the power of man's reason to know *objective* truth. The Enlightenment's *fundamental dogma* is that "man must overcome the prejudices inherited from tradition [and] have the boldness to free himself

85. *Id.* at 124.

86. *Id.* at 132-33.

87. *Id.* at 117.

88. H.L.A. Hart, *Laws and Morals, in* THE CONCEPT OF LAW 181-82 (1986).

89. *Coleman & Leiter, supra* note 11, at 241.

90. Patrick Riley, *Natural Law vs. Legal Positivism*, FELLOWSHIP OF CATHOLIC SCHOLARS NEWSLETTER, (Oct. 1992), *rep. in* X DOCUMENTATION SERVICE, *supra* note 57.

from every authority in order to think on his own, using nothing but his own reason."[91]

Then Joseph Cardinal Ratzinger, now Pope Benedict XVI, explained:

> Truth is no longer an objective datum.... It gradually becomes something ... which each one grasps from his own point of view, without ever knowing to what extent his viewpoint corresponds to the object itself.... The idea of the good is put outside of man's grasp. The only reference point for each person is what he can conceive on his own as good.[92]

Practically echoing the abovementioned positivist belief that law is merely a *product* of social agreement or convention, the Enlightenment theory of the so-called *social contract* was thus described by Cardinal Ratzinger:

> The theories of the social contract ... were elaborated at the end of the 17th century: that which would bring harmony among men was a law recognized by reason and commanding respect by an enlightened prince who incarnates the general will ... [W]hen the common reference to values and ultimately to God is lost, society will then appear merely as an ensemble of individuals placed side by side, and the contract which ties them together will necessarily be perceived as an accord among those who have the power to impose their will on others ... The "enlightened despot" of the social contract theorists became the tyrannical state, in fact totalitarian, which disposes of the life of its weakest members, from an unborn baby to an elderly person, in the name of a public usefulness which is really only the interest of a few.[93]

While it proclaims man's capacity for reason, Enlightenment philosophy actually obscures the use of reason by not ordering it toward what is objectively true and good. It is not actually *human reason* which prevails, but rather the disordered exercise of the *will*. Each and every person, under the excuse of personal autonomy, is 'free'[94] to think and do what he wants. All that a person needs in order to give his belief the semblance of doctrine – social, political, economic or religious – is some plausible logical structure.

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91. *See* RICE, *supra* note 46, (*citing* Joseph Cardinal Ratzinger, Address to Consistory of College of Cardinals (Apr. 4, 1991); *The Problem of Threats to Human Life*, *L'Osservatore Romano* at 2 (Apr. 8, 1991); 36 THE POPE SPEAKS 332-33 (1991)).

92. *Id.*

93. *Id.* at 37-38.

94. This is actually an abuse of freedom, and not *authentic* freedom. Freedom, in essence, is oriented toward the good. (*Cf.* R. R.A. Ibana, *Man's Quest for Freedom*, *in* 2 PHILOSOPHY OF MAN: SELECTED READINGS (Manual Dy ed., 2001) ("Necessarily, freedom is most authentic when it is oriented toward the Supreme Good, which is God.").

This has led to the tyrannical relativism denounced by Cardinal Ratzinger right before he wore the shoes of the Fisherman:

> How many winds of doctrine have we known in recent decades, how many ideological currents, how many ways of thinking? The small boat of the thought of many Christians has been tossed about by these waves – flung from one extreme to another....
>
> [R]elativism, that is, letting oneself be "tossed here and there, carried about by every wind of doctrine," seems the only attitude that can cope with the modern times. We are building a dictatorship of relativism that does not recognize anything as definitive and whose ultimate goal consists only of one's own ego and desires.[95]

Legal positivism is a legal philosophy which does not recognize anything as definitive. The law is simply what the law *is*, and any moral evaluation of law is dismissed as simply what the law *ought* to be.[96] The lawmaker is supreme and under his regime, "the natural and necessary correspondence between humanity and personhood (as what controls under natural law, where all human beings are entitled to be regarded as persons) is rejected." Human beings who are of a different race or color, such as those in the *Dred Scott* case,[97] or the unborn, as in *Roe v. Wade*,[98] or those in the vegetative state, as in the more recent *Terri Schiavo* case,[99] can be stripped of all human dignity and regarded as *non-persons*.

Under legal positivism, the otherwise unqualified natural respect for and protection to life can be, and has indeed been, watered down by a utilitarian emphasis on *quality of life*. Instead of life *per se* being the absolute, *health* and *quality of life* have become the focal point of legal protection, to the point of virtual divinization. Thus, "the human being who does not possess the desired 'minimal' quality does not deserve to be kept alive."[100] This has led

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95. Joseph Cardinal Ratzinger, Homily at the Mass for the Election of the Supreme Pontiff, St. Peter's Basilica (Apr. 18, 2005) (emphasis supplied).

96. *Cf. Lloyd*, *supra* note 36, at 95-96 (discussion on David Hume, Legal Positivism).

97. Scott v. Sandford, 60 U.S. (19 How.) 393 (1857).

98. Roe v. Wade, 410 U.S. 113 (1973).

99. Theresa Marie Schindler Schiavo v. Michael Schiavo, No. 05-11556 (11th Cir. March 23, 2005) and all related cases.

100. *Gauging What Quality of Life Means*, Zenit – The World Seen from Rome, Weekly News Analysis, (Mar. 5, 2005), *at* http://www.zenith.org (quoting the remarks of Pontifical Academy for Life President Bishop Elio Sgreccia before the said Academy's General Assembly gathered on Feb. 21-23, 2005.).

to proposals for "eugenic parameters for the purpose of selecting those who deserve to be accepted or kept alive and those who are to be abandoned or suppressed via euthanasia."[101]

A. Gomez-Lobo, professor of metaphysics and moral philosophy at Georgetown University in Washington, D.C., struck down such destructive belief, stating that "[a] person suffering from health problems is still enjoying the basic good of life, [which good] is distinct from any evil the person may be undergoing." Hence, "claiming to benefit a person by intentionally killing [him because of a perceived] low quality of life ... is deeply wrong."[102]

> The prohibition against killing an innocent person ... is based on respect for the dignity of the human person, and human dignity is logically independent of, and not reducible to, the quality of the person's life because dignity is an intrinsic property that does not admit of degrees.
>
> The suffering and the weak have [in fact] a special claim on us.

The mere fact that he or she is alive unqualifiedly entitles any adult in the vegetative state to protection under the laws. Legal positivism, however, does not sleep in this regard. An emerging trend among so-called "right-to-die"[103] advocates is the belief that once a permanent vegetative state is diagnosed, there must be a *presumption against assisted feeding.* By legislation and/or judicial decree, providing food and water is redefined as "medical treatment"[104] and thus, may be withdrawn like other forms of treatment "if inevitable death is imminent in spite of the means used ... [and these means] ... would only secure a precarious and burdensome prolongation of life."[105]

According to this approach, any resulting death by dehydration and starvation would technically be regarded as *natural death.* This is a grave error. In such a case, "patients do not die because of the vegetative state, but

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101. *Id.*

102. *Id.* (quoting Prof. A. Gomez-Lobo).

103. The term is more political than legal. There can be no *right* to die, as a right is necessarily is a moral faculty (*cf.* Moline Enrique, *Rights of the Person*, *in* 2 FAITH SEEKING UNDERSTANDING, *supra* note 13, at 149) and hence, ordered toward the good. To intentionally bring an end to human life is certainly not in pursuit of the good. Speaking in Hohfeldian terms, this pretended *right* does not warrant a corresponding duty to respect and enforce it.

104. *See Gauging What Quality of Life Means*, *supra* note 100 (quoting the views of Dr. Gian Luigi Gigli, President of the World Federation of Catholic Medical Associations, and Dr. Mariarosaria Valente, Director of the Department of Neurosciences, Santa Maria della Misericordia Hospital, Udine, Italy).

105. *Cf.* 1992 STATEMENT OF THE UNITED STATES CATHOLIC BISHOPS' COMMITTEE FOR PRO-LIFE ACTIVITIES, *cited in* Rice, *supra* note 46. *See also* 21 ORIGINS 705 (1992).

of malnutrition and renal failure.... The outcome [which is death] is fully intended."[106] It is murder, plain and simple.

What holds true for the patient in the vegetative state also holds true for others who may be perceived as *unproductive* and *useless* – the unborn fetus, the newborn infant with immature functions, and the decrepit elderly. The fact is that they are all alive. And simple logic reveals that even the smallest degree of life is always superior to the absence of life. Life is the most fundamental of goods that essentially merits the protection of the law.

There is no question about this in Philippine society. The elderly are cared for to their dying day. Families do not give up on providing food and water even to those in the vegetative state. Pregnancies are considered as blessings, and both the mother and the child in her womb are objects of affection. In other words, for the Filipino, *he has a duty to protect and preserve life in all its stages.* And this duty, consistent with the Filipino's duty-oriented and morally normative legal philosophy, as explained above, must be reflected in the laws of the State. Anything short of this is anti-human and anti-Filipino.

Attacks on the Filipino's Legal Philosophy

Sad to say, the pernicious influence of Enlightenment jurisprudence, relativism and legal positivism have begun to creep into the Philippine legal system. Relevant for purposes of this discussion is the proposed House Bill No. 3773, with the short title "Responsible Parenthood and Population Management Act."[107] A survey on certain key aspects of the bill easily reveals that it is a running and multi-barreled attack on Filipino legal philosophy, most especially the latter's indispensable moral content and adherence to natural law.

Declaration of Policy.[108] While the bill starts off by calling for an integrated and comprehensive national policy on responsible parenthood, effective population management and sustainable human development that values the dignity of every human person and affords full protection to people's rights, it does not take long in negating whatever respect and value it may have for

106. *See Gauging What Quality of Life Means*, *supra* note 100.

107. The author qualifies, at this juncture, that this Essay does not aim to be a comprehensive critique of House Bill No. 3773. Given the immensity of both the illegal and immoral aspects of the bill, such critique would necessarily warrant a separate work.

108. RESPONSIBLE PARENTHOOD AND POPULATION ACT OF 2005, *supra* note 2, §2.

the human person. The bill categorically articulates that the abovementioned policy is based on "the rationale that sustainable human development is better assured with *a manageable population of healthy, educated, and productive citizens.*"[109] This resoundingly echoes the *quality of life* philosophy discussed above.

In the Philippine society envisioned by the bill, there will be no room for the weak, for those lacking in health, for those who still have to be fully educated, for those who cannot as of yet be productive – attributes that could very well refer to children. Children, who are the natural fruit of the love between husband and wife, are, in the world according to House Bill No. 3373, perceived as potential, if not real, burdens to those who would want to enjoy that "state of complete, physical, mental and social well-being ... in all matters related to the reproductive system and to its functions and processes."[110] Children become totally acceptable only if they come from a *two-child family* – the *ideal family size* brandished by the proposed law,[111] as if love, care, support, and social acceptability of children were to be based on mere statistical determination. This is utterly discriminatory, and would run amuck of the Filipino's constitutionally-enshrined principle of *equal protection.*

Basic Principles and Terms.[112] The basic and guiding principles of any proposed legislation constitute its very soul. It effectively serves as the repository of its philosophy and intent. And true enough, the moral and legal malificence that is House Bill No. 3773 is plain in its declared foundational principles. One such principle is the notion that "[t]he limited resources of the country cannot be suffered to spread so thinly to service a *burgeoning multitude.*"[113] The unspoken premise here is that children are regarded as burdens to society and not gifts to humankind wrought by the love of a man and a woman in marriage. It is saying '*no*' to the essentially procreative nature of marriage, which, since it can only be participated in by a man and woman bound together in authentic love and a lifetime-long fidelity,[114] is an

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109. *Id.* (emphasis supplied).

110. *Cf.* Definition of *Reproductive Health in* RESPONSIBLE PARENTHOOD AND POPULATION ACT OF 2005, *supra* note 2, at § 4 (c).

111. RESPONSIBLE PARENTHOOD AND POPULATION ACT OF 2005, *supra* note 2, § 12, in relation to § 4(l).

112. *Id.* §§ 3 & 4.

113. *Id.* § 3, ¶ b (emphasis supplied).

114. Fidelity goes hand in hand with love in marriage. Children have the inalienable right to be raised in a stable and loving family. This can only be achieved if no divorce law is written into every marriage. Any union under which a bride or groom effectively says "I love, and will remain faithful to you, subject to the provisions of the divorce law" runs counter to procreation and the raising of children, which, together with the loving union of husband and wife, constitute the essential purposes of the married state.

important source of human dignity. The true problem of Filipino society in this regard is not the birth of many children or the foundation of more families, but the *just, fair and equitable allocation* of the country's resources.

The Philippine Constitution expressly protects the unborn from the moment of conception. This makes the basic law of the land essentially pro-life and pro-family. But what if a law will allow for situations when the unborn will not even be conceived or carried in the mother's womb? Any such law, with its built-in repugnance for the true nature of marriage and family, would necessarily be unconstitutional as well.

Another dangerous principle found in House Bill No. 3773 is its unqualified exaltation of the *freedom of choice*, described therein as "central to the exercise of any right."[115] This showcases the bill's almost fanatical regard of self-autonomy – man regarding himself as the center of, and yes, *God* of the universe – which is so much characteristic of Enlightenment jurisprudence.

Freedom of choice is not absolute. When it goes against the moral law and human dignity, any human activity, though freely chosen, becomes pure license, an abuse of freedom. Under the bill, *couples and individuals* are allowed, in order *to have a satisfying and safe sex life*, to "have informed choice and access to a full range of safe and effective family planning methods, techniques, and devices."[116] Simply put, "couples and individuals" – this phraseology actually bespeaks another legal and moral abomination which will be explained hereinbelow – are given all the opportunity to have all the sex they want without being subject to the possibility of *fecundity* inherent in the conjugal act. This runs counter to the Filipino's philosophy of law.

Firstly, the said principle is right-oriented[117] and runs counter to the Filipino's idea of law as being based on the duty to do what is good.[118]

Secondly, by creating a cafeteria-type morality, it negates the existence of absolute moral norms. Slyly introduced is the dangerous premise that all family planning methods and techniques are morally acceptable. The bill tells the couple that they commit no moral wrong if they choose to resort to vasectomy or even the condom after surveying all the family planning fare

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115. RESPONSIBLE PARENTHOOD AND POPULATION ACT OF 2005, *supra* note 2, § 3, ¶ c.

116. *Id.* §4, ¶¶ b & c.

117. The "right" here is, of course, more apparent than real.

118. *Mercado*, *supra* note 4, at 148-49.

made available by law. There can be nothing farther from the truth. Acceptance of this approach means consenting to the separability of marriage's procreative and child-raising aspects with its unitive attribute in the conjugal act. Not only is this at odds with the true nature of the marriage; this notion also negates the Filipino's high regard for the family, which is an inevitable consequence of his love for social harmony. For the Filipino, social harmony must be first seen and lived in the most basic of human societies: the family. And he naturally expects the law to respect this.

Equally repugnant is the bill's extension of family planning information and services to *unmarried individuals*, to *adult individuals and couples* without distinction as to whether they are married or not.[119] To be clear, there is no objection to giving medical, psychological, and even spiritual succor to those who are victims of rape or those who have fallen prey to pre-marital sexual indiscretion. However, one must not lose sight of the exalted and serious regard of Philippine law for the married state and the family. Marriage is regarded as an inviolable social institution, and the family, the foundation of human and societal development. This high regard for both marriage and the family is not hard to explain, as shown above, given the natural law component of Filipino legal philosophy.

Logically then, House Bill No. 3773 goes wild when it unqualifiedly places the unmarried on equal footing with the married. The underlying and inescapable premise here is that it is morally acceptable for couples to do the conjugal act and/or cohabit altogether without the benefit of marriage. That is clearly a contradiction in terms. Owing to its procreative nature, the conjugal act must necessarily be done only within the married state. Children, it must be emphasized, have the inalienable right to be brought up, loved and cherished by parents who are not susceptible to legal disunion. Corollary to this, each and every conjugal act must be open to life. House Bill No. 3773 unabashedly allows situations contrary to these authentic principles of human nature. On this score alone, the law must be struck down as anti-Filipino, anti-human, and anti-life.

Conclusion

Bombarded, as he is now, with various philosophies seeking to form the bases for his laws, the Filipino can rest secure in the fact that his own idea of law rests on very firm ground. The essentially moral character and necessary adherence to natural law that mark such legal philosophy necessarily require a notion of the absolute. The Filipino is thus empowered to effectively separate the wheat from the chaff, to distinguish what is objectively evil from what is inherently good. Comforting to him is the realization that his legal

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119. RESPONSIBLE PARENTHOOD AND POPULATION ACT OF 2005, *supra* note 2, § 3, ¶¶ (d), (i), & (j); § 4, ¶¶ (b) & (d).

worldview is actually universal, and finds trustworthy allies in, among others, Aquinas, Finnis, and Fuller – not to mention the man who now goes by the name of Benedict XVI.

It is only with the acceptance of what is absolute that will lend stability to any legal system. There will be order and definitiveness. Instead of the here today, gone tomorrow volatility wrought by legal positivism and moral relativism, society will find a sure repose for all its issues and controversies. Law will then be a faithful rendering of what is just, true, and good.