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Notes and Comment

Some Basic Values in the 1971 Constitutional Convention: A Christian Perspective

VITALIANO R. GOROSPE, S.J.

At the present time, it is not possible to have a complete, systematic, or final conspectus or bulletin of the basic issues under discussion in the 1971 Philippine Constitutional Convention (CON-CON). Besides the disparate Constitutional notes in the daily papers, it might help to provide the ordinary Filipino citizen who ultimately has to ratify the fundamental law of the land with this summary view of some of the basic human values that are at stake. The purpose therefore of these paragraphs is to comment briefly on some of the moral and religious issues of the CON-CON from a Christian perspective. These notes and comments will be limited to a select comparison between the 1935 Constitution's "Declaration of Principles" (Art. II Sec. 4), the "Bill of Rights" (Art. III, Sec. 7), and the proposed 1971 Constitution's "Directive Principles of State Policy" (Art. II, Sec. 1, 7, 11).¹ In confronting the problems of the nation and in seeking new directions to be taken by this country, the Filipino people have placed their hope in the new Constitution. This is a healthy sign of the political maturity of the Filipino people who have chosen to re-structure Philippine society by peaceful democratic means rather than by a violent or bloody revolution.

Value of Morality and Filipino Values

The major challenge to the Philippines and in particular to the CON-CON lies in the sphere of *values*, that is, the goals and goods we desire and strive for. What Filipino values should be embodied in our new Constitution? What basic human values do the Filipino people want their Fundamental Law to achieve? What kind of values do we as a people want our institutions and laws to protect and promote? What values do we want our behaviour and actions to incarnate? After all,

¹ See the 1971 CON-CON's Committee Report No. 1 on "Declaration of Principles and Ideologies" in "Directive Principles of State Policy" in *Graphic*, Jan. 19, 1972, pp. 17-20. cf. also Joaquin G. Bernas, S.J., "The Convention as Codifier," *Ibid.*, pp. 16-20.

our new Constitution, our institutions, the laws of the Republic are only means to the attainment of the values we want our society to preserve and develop. Human law does not aim to maintain law for its own sake but to lend support to human values, to achieve the common good of human persons in community.

The delegates who are to re-write our new Constitution should recognize first and foremost that the basis of all law, especially the Fundamental Law of the land, must be the moral law. The moral order must be the foundation of the legal order. Legality loses its meaning and force if it is divorced from morality because the function of civil law is to mediate the moral law in a particular society of a particular historical and cultural context. By determining and specifying the moral law, the laws of the Republic have the positive function of enabling the citizenry to know and abide by the moral or the natural law. Therefore legality must be adjusted to morality and the legal order must be subordinate to the order of human persons and human values. Hence, the moral basis of our new constitution should be the over-riding directive principle of state policy and the deliberations of our CON-CON delegates.

In determining the Filipino values that should be embodied in the new Constitution, it is essential to consider the moral and religious values of the Filipino people within the concrete historical Philippine situation. We need a new Constitution that is truly Filipino in the sense that it responds to needs and aspirations of the Filipino people. It is not surprising that the Filipino ideology proposed for the new Constitution should include the five Filipino principles of *kabayanihan* (nationalism), *kabuhayan* (livelihood), *katarungan* (justice), *katungkulan* (responsibility), and *kalayaan* (liberty). To "Filipinize" the 1935 Constitution is indeed a worthy task of the 1971 CON-CON. However, we know from historical and actual experience that Filipino values are ambivalent; they can help or hinder the total human development of the Filipino people. It is up to the 1971 CON-CON to discern which Filipino values are truly authentic for human development. Such Filipino values are the concrete cultural expression or partial realization of those basic human values we all share with the rest of mankind, of that quality we call our common humanity (*pagkatao*). Therefore, the more Filipino values reflect what is genuinely "human", the more authentic and Filipino they become. Social justice, nationalism and social democracy have gained special attention in the CON-CON, and they are ultimately based on the value of the human person, the value of human freedom, and the value of human service to the human community.

If the new Constitution is to be truly Filipino, it must seriously take into account the moral and religious values of the Filipino people. Why? Because Filipino values cannot be genuinely human if they are cut off from all morality and religion. The Fathers of the 1935 Constitution were keenly aware that the Filipino people are a moral and re-

ligious people. By the principle of "separation of Church and State", it was never their intention to reject religion or to favor one religion over others, but to protect religious freedom. To respect the Christian values of the majority of the people with four centuries of Christian heritage is not to establish the Christian religion in preference to other religions, but to face realistically the concrete historical and cultural Philippine situation, which should allow every Filipino to become more fully human. No authentic Christian values—which are genuinely human—can be "alien" or "inimical" to true Filipino values. What is truly human is already, though inchoately, truly Christian. In this sense, it can be said that what is at stake in the 1971 CON-CON are the Filipino human and Christian values we want the new Constitution to embody, protect, and promote.

Value of Brotherhood

It is clear from Sec. 1 of the 1971 "Directive Principles of State Policy" that the "Philippines is a national and social democratic republic founded on the solidarity of all the Filipino people" but the brief explanation given offers no basis for "a solidarity between and among all sectors of the Filipino nation." Such a basis can be found in the first truth and most fundamental value, namely, the brotherhood of all Filipinos and of all men. We are a fragmented nation, torn apart by individualism, familism, regionalism, and factionalism. We are a divided people, separated by a diversity of ethnic origins, dialects, regional interests, and religious and political affiliations. In the past, it was Christianity that united us; in the future it is our hope that an assertive nationalism will forge a strong unity. But our common bond and strength, the principle of our unity and solidarity must be the basic reality that we are all brothers. The more basic foundation of Christian or nationalistic unity is our common human brotherhood and it is this fundamental value of brotherhood that must underlie the Filipino solidarity envisioned by the new Constitution.

The value of brotherhood is profoundly a national and traditional Filipino value. Our principle of national unity or *pagkakaisa* for which our heroes fought and which fashioned unity out of diversity is really meaningful only in terms of a more fundamental value we call *pakikipagkapwa-tao*, the principle of human solidarity or the brotherhood of all men. The "solidarity between and among all sectors of the Filipino nation" is rooted in the equality of all men, "irrespective of ideology, race, religion or culture" (Directive Principles of State Policy, Art. II, Sec. 8). Although the need of the hour is a genuine and effective nationalism, our Filipino brotherhood should not be exclusivistic but should extend to all men who are also our brothers because of their humanity or

pagkatao. Filipino familialism should reach out to the whole human family; Filipino nationalism should not jeopardize the unity of mankind. The Filipino value of brotherhood based on the human brotherhood of all man is also a profoundly religious value. It is meaningless without the Fatherhood of God. For the Filipino Christian, the brotherhood of all men takes on the new meaning of Jesus Christ as the elder brother of us all.

Value of Filipino Culture

It is interesting to note that Sec. 11 of the "Directive Principles of State Policy," while intending to "foster the advancement, consistent with national unity, of all sectors of the Filipino people with indigenous cultural heritage," goes on to explain that "the intention is to promote unity without 'christianizing' communities with an indigenous culture." Whereas today the new Filipino Christian speaks of "Filipinizing" Christianity, the CON-CON cautions against "Christianizing" our cultural minorities. Certainly it was not the intention of Committee Report 1 to claim that Christian values are inimical to indigenous Filipino values. The Report's intention is to promote our rich and varied Filipino culture without prejudice to national unity. What the CON-CON Report had in mind is very much in keeping with the ecumenical spirit of Vatican II, open to other Christian and non-Christian religions, its new emphasis on the development of indigenous cultures and the "indigenization" of the Church, that is, the incarnation of Christian values within the native culture. That is why the challenge of nationalism confronting the Philippine Church is the Filipinization of Christianity. Christ must become Filipino, if Filipinos are to become Christians. The fear that Christianity or Christian values are divisive is groundless. The real threat to national unity comes from the imposition of one or other ethnic culture to the exclusion or suppression of all other indigenous cultures.

While we Filipinos are all brothers belonging to the same family, we have as many differences as we have common essential characteristics. But our differences should unite rather than divide us, generate love rather than hatred. The Filipino value of "unity from diversity" or *pagkakaisa* will only unite us if each one of us respects what is different in his brother, if each group respects the value of the other groups. Just as different individuals can be one if each one respects the other's unique personhood, so too all our ethnic groups can be united if each one appreciates the other's unique contribution to the enrichment of our Filipino culture. We have another nationalist principle or Filipino value which can unite us despite our many differences. It is the principle of sharing what we possess with our brothers for the common good. This value of sharing is the genuine meaning of *pakikisama* or partnership, better expressed by the spirit of *bayanihan* or communal sharing.

Sec. 11 of the Directives is significant because it points out our task of completing our national unity by respecting and preserving the different cultural identities of all sectors of the Filipino people. The Philippines is a country of diverse cultures, languages, religious beliefs, and customs; the Filipino people are a vari-cultured race. In our search for national identity, let us not suppress our rich cultural diversity. We must never mistake uniformity for unity but seek unity and harmony in diversity. It is precisely our cultural plurality that should enhance our national unity. A national language most certainly will help to unify us, but in developing a national language we should not eliminate our other languages. The national language is not something we would allow anyone to impose on us. Rather it is something we want to arrive at ourselves through the process of a free interchange of thought and expression so that, in the course of time, we might come up with a much richer Filipino tongue. It might well be that our national language will be Tagalog-based Pilipino, but as one delegate speaking to Tagalogs in behalf of the non-Tagalog Filipino remarked wittingly: "Woo us, just don't rape us." In the long run our Filipino culture will be much richer, if we allow spontaneity among our people rather than impose one culture to the exclusion of the others.

In this age of an assertive nationalism, we expect a new Constitution that will emphasize the development of Philippine culture. A long history of colonialism has made the Filipino painfully sensitive to assert his own identity. But what is the Filipino identity? In an address to the CON-CON's Sub-Committee on Culture and the Committee on Arts and Culture, Preamble, and National Identity on October 23, 1971, Fr. Miguel A. Bernad, S.J., made some very salient points on our Filipino identity.² It is worth summarizing these points, if only to gain a new insight into the value of our Filipino culture. Firstly, in the course of four centuries under Spain, America, and the Philippine Republic, a national unity has evolved and emerged in which people of different regions and linguistic groups do not consider themselves merely as Tagalogs, Visayans, Ilocanos, Pampangos, Bicolanos, etc., but first and foremost Filipinos. Secondly, because we are a multilingual and pluralistic society, our goal should be unity, not uniformity; we must aim at national unity, without destroying our cultural diversity. Thirdly, during the course of our history, we have developed from an early but very rich native culture through a Filipino-Hispanic culture to a new generation of Filipinos who think, read and speak English. There are those who, in the name of Filipinization, want us to get rid of our so-called colonial mentality by forgetting our rich cultural heritage. We cannot turn back the clock and simply bury our past identity. Finally, the accidentals of our Filipino identity may change, but the essential qualities and values

² Miguel A. Bernad, "Philippine Culture and the Filipino Identity," *Philippine Studies* 19 (October, 1971), pp. 573-92.

of the Filipino, such as politeness, hospitality, respect, gratitude, and courage should remain.

One cannot really know the complete identity of a person unless he knows his past life, his present status, and his future possibilities. It is the same with our national identity. We know that the Filipino today is a unique blending of East and West, and like the Filipino *halo-halo*, is a happy mix of so many cultural ingredients—Malayo-Polynesian, Spanish, Anglo-Saxon, and Chinese. According to Fr. Pacifico A. Ortiz, S.J., a delegate to the CON-CON, our Filipino national identity includes our past, present and future.³ The Filipino cannot find his identity by a negative or regressive nationalism which vainly attempts to peel off all non-Asian influences as one would peel off the layers of an onion, for in the end there would be nothing left. Nationalism is a good, positive, creative force in the task of nation-building, but it must be prospective. By responding to the possibilities of the future, the Filipino people will rediscover the hidden potentialities of the past, come to a new understanding of the task of the present, and by selective and creative responsibility, determine and create a national identity which is distinctively Filipino such as to make a unique contribution to mankind. To paraphrase a modern philosopher: "History is retrieving in the 'said' of the past the 'unsaid' of the future." Our new Constitution should look to the future and instill in the Filipino a positive and creative nationalism.

Value of Religion

The Preamble of the 1935 Constitution opens by "imploring the aid of Divine Providence" and it is not without significance that the proposed amended Preamble of the 1971 Constitution has substituted the phrase "Almighty God." Certainly, the word "God" is much clearer than the vague and ambiguous phrase "Divine Providence," though some delegate may quarrel with the descriptive "Almighty." Be that as it may, a more explicit declaration of the Filipino people's belief in God in the Preamble of their new Constitution is a sign that among cherished Filipino values, the value of God and religion claims, if not the highest, at least a most important place. It is an enduring testimony of the religious faith of the Filipino people and a proof of their religious growth and maturity.

In his address to the peoples of Asia, Pope Paul VI on the occasion of his visit to the Philippines, extolled the deeply religious spirit of the Asian man. What the Pope says about the religious nature common to all Asian peoples applies in a very special sense to the Filipino people who make up the only Christian nation in Asia. The natural virtues and

³ "Our Search for National Identity," Inaugural Address of the President of the Ateneo de Manila University, Sept. 25, 1969.

essential qualities of the Filipino people, namely, their strong belief in and hunger for God, their sense of spiritual values, their filial piety, respect for elders, and family loyalty, have become in the course of time, the seeds of their Christian faith. The Pope also pointed out the role of religion in the development of Asian peoples. Far from being an obstacle to Asian development, true religion should be a positive factor and help to Asian progress. Asia, where the great religions were born, and the Philippines in particular, where Christianity feels most at home, should not succumb to the evils of materialism and the widespread atheism of today's world. It would be most tragic for the Filipino people who in their entire history have always been a religious people to ignore, in the name of modernization, God in their new Constitution.

The age of ecumenism after Vatican II has brought a recognition and deeper appreciation of the value of religious liberty and religious pluralism. Still, the Filipino people can strive for spiritual unity amidst religious diversity. This spiritual unity can be achieved, not by eliminating religion and religious values, but by allowing the Filipino people, each in his own way, to search for the one true God. The new Constitution hopes to embody the social, political, economic, cultural and educational values that will unite this country and build one national community. But these social values are only a part of the Filipino's total outlook on life and his total human development; they must be integrated with his spiritual, that is, moral and religious, values. Total human development embraces the whole man and therefore a man's moral and religious values cannot be separated from his social and political values without destroying the integrity or wholeness of his person. Man is essentially religious and his very being, whether he is conscious of it or not, is already directed to God, just like the Pasig river would know, were it conscious, that its flow is already directed to Manila Bay. The religious vocation of every man is to become conscious and to freely choose the religious experience of his direction to God. The value of brotherhood which should be the basis of our national unity is meaningless unless it is based on our consciousness and free choice of God's fatherhood. For the Filipino Christian, brotherhood means Jesus Christ as the elder brother of us all and Christian faith means a free and personal commitment to God Who revealed Himself in the person of Jesus Christ.

It might be instructive to know that the religious provisions of the 1935 Constitution which guarantee the inviolability of religious conscience is very much in conformity with Vatican II's Declaration on Religious Freedom. The main intent of the "non-establishment" and "free exercise" of religion clauses in the Bill of Rights [Sec. 1 (7)] is to protect the value of religious liberty. In re-writing the 1971 Constitution, is there need to re-think the religious provisions of the 1935 Constitution? Is there need to re-interpret the "separation of Church and State" which is the philosophy of the present existing Constitution? These

issues may be raised because some delegates have questioned certain "concessions" which have been accorded to religious churches and groups, e.g., tax exemption of religious property and income; salary for priests and ministers in chaplaincy service; and optional religious instruction. It is clear that the "non-establishment" clause was meant to protect religious liberty, both personal and social, as well as religious harmony among the different religions. It was thought that the best way to achieve religious harmony is for the government to remain neutral in religious matters. This principle of neutrality has also been given to justify "concessions" or exceptions to the religious provisions of the Constitution.

However, from a moral and religious perspective, what essential values should be protected in the Church-State relations of the 1971 Constitution? Fr. Pacifico A. Ortiz, S.J., of the Committee on Church-State relations, mentions three values: freedom, harmony, and cooperation.⁴ Church and State are independent but related societies. The Church is supreme in purely religious matters; the State, in purely temporal affairs. Therefore, within its own sphere, the Church demands freedom from the State, and the State demands freedom from the Church. But since the Filipino Christian belongs to the Church *as a Christian* and to the State *as a Filipino citizen*, since the same one man is both a Christian and a citizen — *civis idem et Christianus* — harmony should exist between Church and State, between the Christian and the citizen. To actualize the value of both freedom and harmony, there must be cooperation between Church and State especially where their interests converge. This cooperation is all the more needed in mixed matters, such as marriage and education and on such questions as the liberalization of divorce or the divorce-proposal for the Muslims. Now, in a republican form of government, where sovereignty resides in the people, the system of cooperation is best achieved through the conscience of the citizen or the framework of free consent. Since the Filipino people are of diverse religious beliefs, the best working arrangement of cooperation seems to be "separation of Church and State".

The theory of "Church-State separation" under the 1935 Constitution needs to be clarified in the new Constitution. The "non-establishment" clause in the Bill of Rights is not to be understood as a profession of religious indifferentism, the claim that religion has no value in public life, or that one religion is as good as another. "Non-establishment" simply means that the State has no competence by itself, nor has it been given any power by the people, to establish an official religion or to prohibit the free exercise of any religion. The philosophy that under-

⁴ Pacifico A. Ortiz, S.J., "The Church and the New Philippine Constitution," *Challenges for the Filipino*, Lenten Lectures 1971, ed. by Raul J. Bonoan, S.J., (Q.C.: Ateneo Publications, 1971), pp. 3-5.

lies non-establishment is the principle of limited government. Religion is too sacred and personal a value in human life to be entrusted by man or society into the hands of the State. Rather, the non-establishment clause is the constitutional affirmation of religious liberty which Vatican II strongly re-affirmed in its Declaration on Religious Freedom.⁵

How then is the "separation of Church and State" to be interpreted in our new Constitution—in an absolute or limited sense? In the opinion of Fr. Ortiz, the 1935 Constitution, unlike the American Constitution's provision of "absolute" separation, does not embody the policy of "studied neutrality" whereby our government is constitutionally disabled not only from aiding one religion in preference to another, but disabled even from aiding all religions equally. There is no reason in the world why we ought to imitate the American model of "studied neutrality." It is hoped that our new Constitution will reaffirm its faith in the value of religion by aiding all religions equally. In short, the spirit of the 1971 Constitution should not be the negative attitude of religious indifferentism nor mere religious tolerance, but the positive attitude of respect for religious conscience and religious liberty.

One of the controversial issues that will most likely be debated on the Convention floor concerns certain "concessions" or exceptions to the religious provisions of the 1935 Constitution, such as tax exemption of religious property and income. The principle is clear that the State may exempt church property from taxation not merely because of custom or tradition, but on the *rationale* that the best interests of society as they now exist are served well by such exemption. Several reasons have been given for religious tax exemption, but they may be reduced to two principal theories. According to the "public burden" theory, religious institutions perform many of the burdens, e.g. schools, hospitals, orphanages, that would otherwise ultimately devolve upon the State which would have to assume these burdens through taxation. According to the "public benefit" theory, religious institutions contribute greatly to the moral and religious welfare of society.

In this touchy question of tax exemption, it would help greatly to clear the air, if the Catholic Church in the Philippines seriously re-examined its own attitudes and conduct. The growing criticism against the Catholic Church has been leveled, among other serious criticisms, at its alleged wealth. Although it is not accurate to speak of the wealth of the Catholic Church, as if it were one big business enterprise or corporation, the critics of the Church, as a matter of fact, have no indication whatsoever as to the real or alleged total assets of all its dioceses and religious institutions. What is at stake in this age of the credibility gap is the institutional Church's own credibility. In the past, the wealth of

⁵ *The Documents of Vatican II*, ed. by W.M. Abbot, S.J., and J. Gallagher (New York: America Press, 1966), pp. 678-81.

the Catholic Church has been a guarded secret. This air of secrecy and, in some cases, lack of openness and honesty have exposed the Catholic Church to harsh and bitter criticism and makes religious tax exemption less palatable to the Filipino people and more difficult for the 1971 Constitutional Convention.

What then would be the major challenge to both the Government and the Church in the revision of the new Constitution? On the part of the Philippine Church (the Catholic as well as the other Churches), its main concern in re-writing the Constitution is not how to preserve its freedom with all its immunities and exemptions. The main task is how to make the Philippine Church an apt instrument of harmony and cooperation, a more effective instrument of individual and institutional reform to bring about social justice and national development, the central problem of our times. The Churches in the Philippines will fail the Filipino people, if they concerned themselves only with "concessions," such as tax exemptions, optional religious instruction, and greater autonomy of Church-related schools, instead of addressing themselves to the central problem of social reform in Philippine society. On the part of the Philippine government, the 1971 Constitution should not try to achieve religious liberty through religious indifferentism or mere religious tolerance. Nor should the new Constitution espouse absolute separation of Church and State by simply copying the American policy of studied neutrality. Catholics, Protestants, Aglipayans, INK members, Muslims, non-Christian minorities are all Filipinos. The Filipino is a citizen of two worlds, the spiritual and the temporal; he is a member of the Church and of the State. A good Filipino cannot be a bad Christian and a good Christian cannot be a bad Filipino. The kind of government we envision in our new Constitution should not be in conflict but in harmony and cooperation with religion and the Church.