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## **Slavery, Flogging and Other Moral Cases in 17th Century Philippines**

Jose S. Arcilla

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# Slavery, Flogging and Other Moral Cases in 17th Century Philippines

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JOSE S. ARCILLA

...one who is sentenced to serve for so many years and is later free without ransom is properly not a slave, but only someone condemned to such a punishment. It is as if a woman convicted of some crime is sentenced by the court to serve two or four years in a hospital, as happens here in Manila.<sup>1</sup>

**T**HE quotation is one of the many conclusions made by Fray Juan de Paz (+1698), the famous Dominican moralist in the Philippines during the second half of the seventeenth century.<sup>2</sup> Called the "Universal Oracle of Asia," his opinion was frequently sought on questions or situations not clearly covered by the Spanish Laws of the Indies or Canon Law of the Church. The above passage was an opinion

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<sup>1</sup> Juan de Paz, O.P., *Consultas y varias resoluciones* (Sevilla, 1687), "Consulta XLI." It is not possible to follow a uniform system of notation; sometimes, the pagination or folio number can be cited, at other times reference will be made only to the case number. All of the sources for this essay are the manuscripts and printed collections in the Dominican archives in Quezon City. There is also a collection of cases of conscience on microfilm in the Rizal Library of the Ateneo de Manila University.

<sup>2</sup> Fray Juan de Paz, O.P., came to the Philippines in 1648 and was immediately assigned to the Buguey mission in Cagayan. He was later sent to teach at the University of Santo Tomas, where he became successively Regent, Rector and Chancellor. Three times he was appointed Prior of the Dominican Convent in Intramuros, Manila. Suspected

he rendered to settle the case of a person whose civil status was uncertain in a society where rank and birth were important.

The purpose, however, of this essay is not to analyze how Father de Paz and others like him applied the legal institutions of Spain to her colonies, but to see what a historian can learn from their actual application. The first is the task of the moral theologian, but the second lies within the competence of a historian who seeks from all available sources some picture of the life of the Filipinos in the second half of the seventeenth century. The sources in the present instance are the cases of conscience preserved in the printed and manuscript collection called "*Consultas morales*" in the Dominican archives in Quezon City.<sup>3</sup> The method is similar to that of the physician who diagnoses his patient's condition by observing the latter's symptoms; in other words, the difficulties encountered after about a century of Spanish rule are a reflection of Philippine society. The danger, of course, is that since the sources are exclusively about problems and difficulties in the Philippines, a negative picture of what life really was will be perhaps all that the reader will remember. This can be obviated if one keeps in mind that in what follows there is no attempt to say how extensive certain problems were, and the essay is offered merely as an indication of the multiple aspect of Philippine society by the second half of the seventeenth century. It is also hoped that a new area of research would be introduced to those who are interested in "rewriting" the history of this country.

### SLAVES IN THE PHILIPPINES

One might perhaps begin with the observation that by

of probabilism in his moral views, he was summoned to Rome, but just as his galleon was lifting anchors, it sank off the port of Cavite. Piously it was remarked that Father de Paz was preserved for work in the Philippines. Consulted by high and low, his reputation for sound moral judgment earned for him the sobriquet of "Universal Oracle of Asia." He died in 1698.

<sup>3</sup> For a brief guide to the Dominican archives, see José S. Arcilla, "A Random Listing of Manuscripts in the Dominican Archives," *Philippine Studies* 20 (First Quarter, 1972), 176-87.

1685 slavery was still accepted in the Philippines. A decree of the Manila Synod of 1582-1586 had already condemned it, but it was a dead law. More precisely, the Spaniards in the Philippines were not allowed to have slaves, except Moslems from Maguindanao (present Cotabato) and Sulu captured in war. The Filipinos themselves were not allowed to enslave Christians, but the government did not enforce the ban to the letter. People saw no injustice in the institution of slavery, but they argued about the "just price" or value of a slave. Thus, in 1687, a moral judgment reads in part:

Eight *taels* for a twelve-year old boy is to me too little to make him a perpetual slave. In Manila, the price of a boy two or three years old is reckoned at thirty pesos more or less. . . . Until he is eighteen or twenty years old, the service of a twelve-year old boy is of little value. One also has to consider the risk that he might die or fall sick and be of no use to the person who bought him. . . . if one buys the child three or four years of age (as is customary in China), an age when the child cannot work, and the master spends for his upbringing, he can keep him as a slave until the latter is twenty years old. From then on, he must pay a tael for every year of service. Hence, if a man has paid five taels, the slave can consider himself free of his obligations when he reaches his twenty-sixth birthday.<sup>4</sup>

Apparently, there were three kinds of slaves in the Philippines: 1) those who either sold themselves or were sold by their parents; 2) those who were captured and enslaved in war, especially if they were unbaptized pagans; 3) those who were condemned by judicial sentence to slavery.<sup>5</sup>

In many cases, extreme poverty forced parents to sell their children. There was, for example, the case of an unbaptized ten-year old boy sold by his father in order to have money for the tribute and for food. There was also Nicolas. In order to redeem his daughter, he bound himself to a certain Juan for 28 pesos. He went to live in the latter's house, obliging himself to do all that they commanded him, until "he

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<sup>4</sup> De Paz, *Consultas* (1687), p. 102. A *tael* in the sixteenth century was equivalent to 10 *reales*.

<sup>5</sup> *Op. cit.*, 525.

paid and satisfied the said amount, and for such service he would not deduct anything...until he paid it fully.”<sup>6</sup>

By the middle of the seventeenth century, there were no more “wars” in the Philippines in the sense of fighting to conquer the islands. But there was still much fighting and government troops went on frequent expeditions against what was termed as the “*Indios cimarrones*,” the native Filipinos who had fled from justice and “molest by killing and by their hostility the Indios who are subjects of his Majesty.” If captured, the former, “. . . men, women, or children, were sentenced to slavery and hard labor in the Galleys for a period of ten years, after which they are set free. . . .”<sup>7</sup>

One remark is in order. Unlike the American practice, Philippine slavery did not leave a permanent stigma. Certain crimes were juridically punishable by “perpetual” slavery, but moral theologians argued that people so sentenced could justifiably seek to escape from their master because no one could condemn them to a life of extraordinary difficulty. Besides, work assigned them did not need a life-time to perform, e.g., serve as oarsmen or porters, pound rice (in those days before the rice mill). These chores did not effect a substantial or permanent change in a man, nor was the master enriched by one or two more slaves for these tasks. But the master had a just title to the work of a slave, although it was denied that he could own the *person* of the slave.

It was this thinking that explains why slavery eventually disappeared in the Philippines. Those that are described in the documents as slaves (*esclavos*) are perhaps better called today *indentured servants*. On the other hand, they were mentioned in wills and testaments as hereditary property and if they were farm hands, they could be sold together with the land to which they were attached.

#### THE CHINESE

Before 1680, there were many wealthy Chinese residents in the Philippines whose individual assets were valued at

<sup>6</sup> *Op. cit.*, 27-28.

<sup>7</sup> *Op. cit.*, 104.

more than 40,000 pesos. But, by the second half of the seventeenth century, their number had dwindled and the majority of the Chinese in the Philippines were poor. For lack of means to support their children, many abandoned their newborn infants to die, unless some kind person came upon them and took them for upbringing. It was not unusual for these impoverished Chinese to seek loans at exorbitant rates that eventually ruined them "since they were unable to pay their debts from their [business] profits." There were exceptions, fortunate traders who reaped a hundred, at times two hundred percent profit in their trade.<sup>8</sup>

More significant for the social historian is the different treatment accorded the Chinese and the native Filipinos:

Regarding the Chinese who are whipped for not attending Mass, I say that the Curate as a father can give them a moderate punishment without causing injury. For this reason, one can give without any scruples a couple of lashes to the *Indio timaua* [free Filipino] because among the latter, no insult is inflicted nor is the pain excessive. But some have complained about the Chinese who have a greater reputation than the *timaua*. It would be a notable affront to the members of this race if they were given a couple of lashes. I believe that if the Chinese is one of those poor porters who are not too well respected, it is a moderate punishment to whip him secretly in the priest's house, not exceeding what a father can inflict on his son....<sup>9</sup>

The discrimination was in keeping with the tradition that children born of an *India* (native Filipino mother) and a Chinese, or, at least, a Chinese mestizo, were to be classed as Chinese mestizos. Daughters of a Spanish father and a Filipino mother lost their *mestizaje* if they married an Indio, or Filipino. They were "classed and reduced to the family, origin and caste of the natives and to their manner of life..."<sup>10</sup>

On the other hand, the Chinese, described by one moralist as "naturally timid and cowardly," were easy victims of extortion in and around the Parian of Manila. Following an ancient Chinese custom, the Spanish authorities in Manila permitted

<sup>8</sup> *Op. cit.*, 567, 439; *Consultas* 3, Número 13, 14, 15.

<sup>9</sup> *Op. cit.*, 561.

<sup>10</sup> *Op. cit.*, 589.

the local Chinese to gamble for five days during their annual festival. Certain moderate fees were collected, out of which were paid the salaries of the officials and constables who supervised the games. During the term of Governor Diego Fajardo (1644-1653), it was decreed that the money collected from gambling fees and licenses was to be used for the upkeep of fortifications. Soon, however, the Chinese were made to pay not only the usual moderate fees, but handsome tips of money to the city officials when the Chinese festival came around. At one time, these reached the staggering sum of "more than 8,000 pesos collected in the name of fees: a good part of this is kept in the royal treasury while the rest is shared among the various officials."<sup>11</sup>

There were, of course, several ways to consummate these underhanded deals. The most obvious and the easiest was to extend the gambling period to eight or ten days. Sometimes, the authorities in the Parian, "besides the *petates* (the name given to the gambling tables of the Chinese) approved by the government, put up another petate of their own and oblige some Chinese either with threats or with blandishments to take charge..." It was also not unusual for the Chinese around Manila to be forced to go to the Parian during the Chinese festival "on the behest of the local magistrate in order to make sure that there were gamblers from whom one could impose so much as a fee." But Filipino and Chinese officials themselves were part of the system apparently, for "in order to fill their quota from the gambling licenses, they collect from every Chinese even if he does not gamble." And a more subtle form is described in the following report:

The *Alcalde mayor* of the Parian used to invite the Chinese to a dinner in his residence during which he offered only chocolate and *buyó* to

<sup>11</sup>*Op. cit.*, 483. How such a huge sum could accumulate is seen in this passage: "...they collect for every pack of cards three pesos as the fee, which includes payment for the candles, wax, *buyó*, chocolate, and tobacco which they always serve, thus keeping up the interest in the games with so many gamblers in the house, plus all the disturbance and the bother...the *Alcalde mayor* gains from every gambling table two pesos for each day of gambling, another two for a night of gambling, which all in all, even if there are not more than ten tables, bring in forty pesos daily..." (*Op. cit.*, 478-80).

his guests. All the Chinese who had accepted the invitation offer him money, each one according to his desire...and sometimes it happens that the Chinese themselves insist and beg the Alcalde or some other official or justice of the Parian, so that he might invite them to a similar affair later... [for] the Chinese, in order that they might be allowed to gamble during their festival, offer a sum of pesos....<sup>12</sup>

### THE ALCALDES

It is a commonplace in Philippine history that much of the suffering of the people was caused by abusive alcaldes and other provincial officials. Inefficiency in government, ignorance of the law and even the malice of the officials were cited as the cause of the difficulties. Significantly, moral theologians insisted that the Alcalde mayor had a special obligation in conscience to know the laws and ordinances in actual use (*en vigor*) among the people, so that he could help them, for "this is what his Majesty in his ordinances and many royal cédulas especially charges him with...." For the alcalde mayor was the agency of defence for the people against their enemies, and he was expected to "keep the people in peace and justice... a Judge in political matters and a Captain in military questions as well."<sup>13</sup>

The ideal was seldom realized. One of the routine tasks of the alcalde was to make a yearly visitation of his province to oversee the implementation of the royal ordinances regarding the "raising of fowls, crops and coconut trees." In that age when travel was a risk to life and limb, it was not too difficult for the people from a town to convince the alcalde for a certain gift not to come around. But because failure to visit the towns was cause for the *residencia* at the end of their terms, the alcaldes themselves made an effort to fulfill the law. Unfortunately, it was "pure show and external ceremony, and they usually leave the task to one of their subordinates in order that the latter might gain four *reales*."<sup>14</sup>

More serious was the abuse connected with the *bandalas* and other food requisitions by the government. Usually the

<sup>12</sup> *Op. cit.*, 478, 146, 484, 440, 460, 439.

<sup>13</sup> *Op. cit.*, 467, 469.

<sup>14</sup> *Op. cit.*, 461, 468, 518.



government in Manila instructed the provincial officials to pay the people from the royal funds collected in the provinces. But, as one moral case reads,

...the royal funds already marked by the King through his ministers as payment to the people are appropriated by the Alcalde as payment for what he claims the King owes him furnishing merely a certification that the King owes the townspeople so much. This is not a recompense ...but stealing from the people...<sup>15</sup>

Not only then did the Alcalde help himself to the government funds, but he was also in an excellent position to corner the market. In Bataan, a complaint was filed against one who paid two reales for a cavan of rice, although it sold for three reales. In Cagayan, the people reported that their alcalde paid a very low price for the wine manufactured locally but later sold it at an exorbitant profit. The people had no "freedom to sell [even] one ganta of rice to anyone else, except what the missionaries bought for their own use; and even this the alcalde tried to prohibit...."<sup>16</sup> Likewise, another alcalde in Cagayan fixed the price of a *chinanta* of dried fish at two reales, obliging the residents under threat of public whipping to bring their dried fish to Lallo (presently a small town, but formerly the seat of the diocese of Nueva Segovia) at that price. The best that the Dominican friars could do was to pay three reales for a *chinanta* of fresh fish. They found their hands tied because if they tried to face up to the alcalde, the latter would take it out on the poor people.

It may seem strange that the people were so easily victimized. But, as one missionary wrote, the people were seldom alert enough to detect the false weights and measures used by the government officials. Oftentimes, the people would measure nine gantas of rice to bring to the town hall as their quota of the *bandala* and find to their dismay that their contribution was scarcely enough to fill eight gantas! Some of the alcaldes, too, either bought or bartered wax from the people for export to New Spain. The alcaldes however did not deal directly with the wax gatherers, but their henchmen who "...for their own

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<sup>15</sup> *Op. cit.*, 449.

<sup>16</sup> *Consulta* LXVIII: De Paz, *Op. cit.*, 469.

profit, deceive the people even in the weighing of the wax and in this way the *alcalde's* men stand to profit immensely."<sup>17</sup>

But perhaps an insight into the situation was described in the following passage from Father de Paz:

...the gifts which the people give to the *alcalde*, especially when they sell their rice at a lower price than is ordinary...are due to fear and not from their free desire. Just consider the power of an *alcalde* and the pusillanimity and fear of the Filipinos, and no prudent person will say that they sell their rice at a lower cost to the *alcalde mayor* or to the *escribano* and to the other powerful people because they want to do so, but because they cannot do otherwise, nor would they dare ask for a higher price. It is not that the people would not find it better were they paid all that their rice is worth or if they were free to sell to those from whom they could demand more.<sup>18</sup>

It would not be correct, however, to end with this negative impression of the *alcaldes* in the Philippine provinces. There were bad *alcaldes*, but there were also several good ones. For example, there was one who spent more than 200 pesos of his own money in order to raise and equip a detachment of Spanish and Filipino volunteers to fight the "negritos and Zambal mountaineers who infested the province [of Zambales] and devastated the fields, killed the Christians and cut off their heads, not leaving the people in peace to till their farm lands."<sup>19</sup> Another one, mistakenly perhaps, tried to ease the burden on a certain town by recruiting the quota of public laborers from another town where the men happened to have received an exemption from the *polo* or forced labor, "risking by this action a reprehension from my Superiors...." And a third *alcalde* had stipulated in his will that 500 pesos of his property should be divided among the people of his former jurisdiction to help them fill their quota of the *bandala*.<sup>20</sup>

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<sup>17</sup> *Op. cit.*, 498, 454.

<sup>18</sup> *Op. cit.*, 454.

<sup>19</sup> *Op. cit.*, 466.

<sup>20</sup> *Op. cit.*, 466, 488. By 1770, a domestic servant was paid one peso a month, plus free food and lodging. If one keeps this in mind, he will see that 500 pesos is no mean sum.

## LIFE WITH THE PRIESTS

One of the problems of the priests in the Philippines during the seventeenth century concerned their basic need to be able to support themselves. A moralist suggested that, unless a cleric "gambles or indulges in superfluous expenses, he does not suffer any real need with his yearly stipends of 100 pesos, 100 *fanegas* of rice and an *arroba* of mass wine from Castille."<sup>21</sup> Unfortunately, income in the Philippines was unstable. Some farms might at one time yield more than the expected revenue, but a disastrous earthquake, like the one that occurred on the feast of Saint Andrew, 30 November 1645, or a fierce typhoon, could ruin the land and the harvest, and upset the best budgetary plans. It could also be that certain towns did not have enough residents to be able to raise enough tributes to support a priest. That is why in the time of Governor Sebastian Hurtado de Corcuera (1635-1644), it was arranged that where there were less than 500 full tributes, the central government in Manila would add the needed subsidy to assure the minimum stipends for the support of the priest.<sup>22</sup>

In view of this, one need not be surprised at the various cases of conscience involving priests in the Philippines during the seventeenth century. One case, for instance asks whether a priest, without incurring the penalties imposed by canon law, may employ a private agent to invest a thousand pesos in New Spain, with a written contract that the capital would be returned plus one hundred and fifty percent increase. It was also asked whether a priest may invest his money in the gold or silver mines in the Philippines. Again, the question was posed by a priest whether he could demand a monthly interest

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<sup>21</sup> Against certain heirs of a dead benefactor who contested a bequest made to the Church for perpetual masses, Father de Paz argued that it was not unjust to give "20 *reales* as alms for each mass... the stole fees in the Islands provide that perpetual masses receive as stipends 6 reales, the other masses only four reales. Since those who have departed this life have no need of things of this world, it stands to reason that they should give to the Church and to her Ministers some other big donations for the suffrages that are offered for them." (*Consulta* LXXV).

<sup>22</sup> *Consulta* LXXIV.

rate of one *toston* for every ten pesos he had loaned to a fellow priest.

An interesting sidelight into the daily activities of the priests in the Philippines is the following passage:

A cleric in the parish of N. paid the Commander of the Fort 150 pesos for the fishing rights in the sea beside the fort. He planted a *bonbon* or bamboo stakes around the area, and hired Filipino fishers to gather the fish, with himself going out to sea with them as their leader. The fish were sold to the Chinese and the money was shared among the priest's helpers. When the Archbishop heard of this, he asked for an explanation.<sup>23</sup>

Contrary to popular belief, the greatest difficulties encountered by the priests lay not in their personal sexual problems, but in the human tendency to want more power and more wealth. Several cases preserved in the archives concern clerics who sought multiple benefices, and there was at least one case of a secular priest who, after receiving a substantial benefice from a lay benefactor, presented the latter with a handsome gift, but with the unmistakable message that he was asking even a fatter benefice for the future.<sup>24</sup> And the following incident over burial rights and the corresponding fees may strike one as ridiculous were it not that the protagonists were dead earnest about it:

Maria died...and although her body had already been buried, the Curate sent for it and wanted it to be exhumed. He claimed that we should not bury her in our Hospital [of the Fathers of Saint John of God]...that she should be interred from the parish church and that he be paid his dues, with all the burial fees as though he had officiated in the burial. The Curate claims that the right to bury the sick who died in the hospitals covers only those who go there to be cured, and not those patients who are brought to die in the hospital, as was the case of Maria.... For, as the Curate says, to go to the hospital in that [moribund] state was a plan and a trick to defraud the Church of its funds and the Curate of his dues, and if this procedure is introduced, the Curate will perish.<sup>25</sup>

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<sup>23</sup> *Consulta* LVIII.

<sup>24</sup> *Consulta* XLVIII.

<sup>25</sup> *Consulta* XX, XXI, XXII.

It was not a total picture of darkness, however, and it is good to note that there were priests who tried to fulfill their high vocation. There was the case of an encomendero who had collected the tribute, but it amounted to just one *real* more than was obligatory. Before he died, he went to the confessor who imposed the obligation of restitution on pain of being refused sacramental absolution. The encomendero finally had to announce to the townspeople that he would pay them back what he had unjustly accumulated at their expense.<sup>26</sup> There was also the priest whose conscience bothered him because he had asked some of his parishioners to perform some unnecessary task in the convento (*alguna cosa supérflua en la casa*), which he feared he had no right to ask because "it does not seem that the people are bound to do more than what is sufficient for the support of the priest and the upkeep of the Church."<sup>27</sup> Finally, there was the priest who wanted to know whether he was bound to pay salaries to his houseboys and the sacristans in the Church. He was assured that because they were living in the convento with the priest and were learning some useful skills for later life, they were already being compensated for the work they were doing for the priest. As a matter of fact, many parents wanted their sons to stay with the priest. They grew up to be *cantores* or *escribanos*, town officials who were exempt from forced labor. That was why fathers of families did not keep them in their farms. It was considered a saving because at no cost of their own, their sons were learning something profitable for later life.<sup>28</sup>

### THE FILIPINOS

A constant irritant between the early missionaries and the crown officials in the Philippines was the imposition of the tribute on the natives who agreed to come down from the mountains and live in the Christian towns. The priests claimed that it slowed down the task of conversion and occasioned the frequent abandonment of the reductions or towns they had

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<sup>26</sup> De Paz, *Op. cit.*, 503.

<sup>27</sup> *Consulta* LXIX.

<sup>28</sup> De Paz, *op. cit.*, 264.

so painstakingly established. Rather than pay the tribute, the neo-Christians chose to go back under cover of the night to their former life in the forests and mountains. But the government insisted on imposing a tribute "to support the expenses that had to be met in the teaching and government of the Indios, and in order to defend them in their wars, protect them in time of peace...."<sup>29</sup>

As is well known, however, there was much abuse in the collection of the tribute. The tribute itself was not really exorbitant and it was legally justifiable. But in 1685, a moralist wrote that "...seeing how they are daily imposed upon for so many bandalas and personal services without adequately being paid (and this is virtually a tribute since they are imposed by public authority), I believe that until these bandalas and personal services are significantly mitigated, the Filipinos should not be obliged in conscience to pay the tribute...."<sup>30</sup>

How the people were cheated in their tribute is seen in this description:

Pedro went out to collect the tribute from two towns. From each tribute which totals 55 gantas of rice, he obtained 8 gantas more by heaping up each ganta. In the other towns he obtained 14 gantas more from each tribute. Each tribute totals 2 cavaness and 5 gantas of rice, and from 1,193 tributes, he was able to get more than 463 cavaness, even after he had lost 186 through destruction."<sup>31</sup>

Curiously, there were girls in Manila and in the provinces who had not yet reached the age for paying the tribute but had volunteered to be included in the tribute lists in order that they be set aside from the minors who had the double duty of attending catechism and prayers in the church on certain feast days and of taking turns to pound the rice for the parish priest.

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<sup>29</sup> De Paz, *op. cit.*, 469.

<sup>30</sup> *Op. cit.*, 565.

<sup>31</sup> *Consulta XXXVI*. The reader might be interested in this passage which is an index to the poverty of the people: "...it regularly is a mortal sin to steal 2 reales from an Indio...but if it is [from] a very rich man who abounds in wealth, it will be a mortal sin to steal the sum of 12 reales, according to some Doctors, and according to others, a ducat, which is 11 reales...." (*Consulta II*).

The indolence or natural apathy of the native Filipinos has been the subject of much writing in Philippine history. What Rizal had written about it seems to be confirmed by the observations of the seventeenth-century moral theologians in the Philippines. In explaining why ordinances were passed to make the people raise fowls and pigs and plant coconut trees and other vegetables, they wrote that the intent of the law was to have "some provision for the towns and that the people themselves might have something to eat and sell."<sup>32</sup> Unfortunately, the law seemed ineffective, and it was not merely because of the native incapacity of the people or indifference. It was practically impossible to obey the law:

...they do not have slaves nor people to help them, but only themselves, the Indio and his wife [to work their farms]. But he is away for most of the year felling timber, or manning the rafts or occupied with other tasks to which the Alcaldes mayores assign him. Thus, no time is left for planting much more than a little rice to give to the bandala. Most of the people do not have the wherewithal to start a poultry or a piggery; and if someone has a few chickens or pigs, here comes a soldier into town and he steals them, because the poor Filipino has no means or men to guard them....<sup>33</sup>

It was not always the Spanish soldier or official who abused the poor Filipino farmer. Native soldiers and native petty officials also were guilty of the same offence:

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<sup>32</sup> De Paz, *op. cit.*, 518.

<sup>33</sup> *Op. cit.*, 462. This is how Father de Paz explains the origin of the bandalas: "...these bandalas of rice contributions, which are imposed on the people on the pretext of supplying the Infantry, are not an old practice, because in the time of Governor Diego Fajardo, who was ruling the Islands, there was no rice for the Infantry in the year 1650. He sent out an order to buy it in every town, at the same price that it now is worth at the present value of money, and with the stipulation that no one should demand from the people except what they do not need for their own food and for their seedlings; and only what they would have to sell to the others, they might as well sell to the King at the price that they charged the rest. The personal services, which they call *tanorias*, and the other occupations not needed for the common good have been increased greatly these past few years although some Alcaldes mayores, quite careful not to soil their conscience, usually mitigate them." (565).

... a petty magistrate or *bilango* who was bringing 200 men to the forest to fell logs received a bribe from 25 of them so that he might let them go back to their homes and excuse them from the work. The bribe is up to 50 pesos and he pockets them...

... [another] petty official receives here in Manila a bribe from certain Filipinos who man the rafts to Cavite... since they fear that on arrival there they would be made to work in the shipyard (for it is common practice to assign the Filipinos to work in the shipyard during the season for shipmaking). They give to this official... one toston each so that he might release them.... Those who do not give a toston are brought to Cavite, those who give are set free.

A *bilango* is leading the people assigned to him. They slaughter about three cows owned by some persons from another town.... The *bilango* ate of these cows, fully aware that they had been stolen.... One stole a banca from that same town where the cows had been stolen... the banca would cost about a peso and it had been stolen through the *bilango* himself.<sup>34</sup>

As remarked at the beginning of this essay, cases of conscience are properly the concern of the moral theologian. But properly used, they can be the historian's index to the life of the people, to how local attitudes and values were gradually changed and Christianized. It is known that Spain did not abrogate native traditions provided they did not go against the natural or divine law. Directives from the Crown provided that "the Indios be judged in their lawsuits according to their laws and customs...." Where there were no native laws, the people were subject to the Spanish legal code because the Philippines, together with the other South American colonies, were a "kingdom" on a par with the other Iberian kingdoms united under the crown of Castille.

An instance of this was the right of prescription. For reasons that need not be detailed here, the islanders before the advent of the Spaniards never recognized such a right, nor, after the Spanish conquest was it introduced that a claimant or a title-holder to property could lose his right by prescrip-

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<sup>34</sup> A moral theologian makes an intriguing comment about a case of two groups of Filipinos that were fighting over their rights to areas of fishing: "... although they might be blamed for their expensive lawsuits about their fishing rights (would that all were guilty of this fault and not be rather guilty of their great apathy)...." (*Consulta* LXXVII).



tion. And so, in 1680, moral theologians in the Philippines argued that by the "law of the Realm," it should not be introduced into the legal system of the colony at all. The reasoning was based on the medieval code of Spain, the *Siete Partidas*: "...the Indios enjoy the privilege of minors...and a law of the *Partidas*, L. 8, tit. 29, part. 5, says that minors under 25 years of age cannot lose their property by the law of prescription until they reach majority age."<sup>35</sup>

This was also perhaps the reason why the Filipino Christians were not haled before the Holy Office of the Inquisition in Manila. The list of cases that fall within the competence of the Holy Office could also have been committed by the Filipinos: heresy, acting as a priest without valid orders, withcraft, observance of the Jewish sabbath, denial of the Catholic dogma of the virginity of Mary the Mother of God, acceptance of the teaching of Mohammed or Luther, membership in the condemned sect of the *Alumbrados*, keeping books prohibited in the *Index*, etc. But the Filipinos were considered "minors" in the Christian Faith and they were, therefore, exempt from the jurisdiction of the Holy Office.

### SOME CONCLUSIONS

It was not the intent of this essay to present a full study of the cases of conscience preserved in manuscripts and Philippine archival collections. Only a sampling was included, a random selection of instances to illustrate what, to the present writer at least, has so far been a closed book in historical research. And yet, the few cases included here already cover the entire range of human problems—cheating and breach of contract; violation of professional secrecy; clerical gambling and business; mistrial for pecuniary considerations; statutory rape; contesting the validity of last wills and testaments; homicide; acts of thievery; etc. It is hard to say which problem was most frequent in the Philippines, and the cases involved both public officials and private persons, respected townspeople, lowly slaves or servants, missionaries, bishops, soldiers, traders, etc.

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<sup>35</sup> *Consultas* XXIII, Número 89; XXII, Número 82-83.

A conclusion that presents itself is this, that more careful study is needed before one can say that the colonial history of the Philippines was a period of exploitation of the natives by their colonial masters. This was not the entire truth; for it was also true that the *Filipinos themselves*, both as local officials and private persons, did not hesitate to exploit their fellow-Filipinos.

The essay is limited in another sense because there was no attempt to investigate the Philippine context in which these problems arose. But there seemed no need for that. In a real sense, these problems *were* the context, they *were* the factors that formed society in the Philippines of the seventeenth century. The officials who circumvented the law and the people who failed to enjoy the benefits of the law are the actors and creators of that society. In order, therefore, to understand that society, one must look into their actuations. This is what one finds in these cases of conscience.

Cases of conscience were incidents or local situations that did not clearly fit into the principles of conduct and morality brought by the Spaniards. For example, before they came, economic exchange among the native islanders was almost exclusively through barter. The introduction of coinage naturally occasioned a number of dislocations. Not having clear norms of procedure, people sought guidance.<sup>36</sup> They wanted to act ac-

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<sup>36</sup> A case of conscience would read like this: "A Filipino lends ten pesos to another Filipino with the corresponding guaranties. I am asked how much can be gained each month, how much if there is a guaranty, how much if there is none, because of the average rate of interest among the Filipinos who demand a *toston* for every ten pesos, making a total of sixty pesos each year for every hundred pesos...the lender tells me that he lent the money in order to invest it and gain something, and that at least he would [want to] gain two pesos each month. May your Reverence please answer me because within my jurisdiction, most of the cases are of this nature, and I wish to keep before me a guide or a clear norm by which to judge them with the assurance of a clear conscience..." Part of the solution to the case reads: "...no matter how small, whatever a person gains beyond the amount given in loan is usury and sinful. This is most certain and it is an article of faith [sic], for it is expressed in Holy Scripture, Psalm 14, that he will not rest in glory who gives out his money in return for usurious gains." (*Consulta* II).

according to their conscience, although they did not see too clearly just how. They had to learn what "usury" or a "just rate" of interest meant in the new local economic situation. Steeped in scholasticism, the moral theologians offered solutions that naturally echoed the doctrine inherited from Thomas Aquinas and the other Spanish theologians of the sixteenth and seventeenth centuries. Thus, one sees how a society came into being, how a way of life came to be accepted by the Filipinos. Under the guidance of the Church and the Spanish Crown, traditional principles of Christian morality interpreted by scholasticism began to color the Filipino ways, began to be the inspiration and the basis of Filipino values. One need not be disturbed by the phraseology of the Spanish chroniclers and writers who described the natives as "minors." Until very recently, to be civilized was to be western. Non-Europeans were considered an "inferior" race and the missionary's task was taken to be one of "lifting up the heathen nations" in order to share with them the blessings of European culture. And so, until the people had fully imbibed the transplanted culture of Europe, until the Filipinos were "hispanized," they were said to be learners, beginners who had to be tutored toward a "more mature and civilized" life.

One final note. It is not insignificant that the missionaries themselves questioned the justice of imposing a tribute on the native population. The debate was briefly indicated above, but the underlying situation was the *novelty*—for the Filipinos—of town life, with its implied obligations, like the tribute, and the *polo* or forced public service.