

The Issue Of Religious Instruction In Philippine Public Schools: A Question Of Values?

Michael N. Quiros ^{*}

Abstract

Should religion be taught in the public schools? This is the question which this paper attempts to answer in three parts. First, it explores the respective stances of the Church and of the State on the issue of religious instruction in Philippine public schools. Next, their assumptions are analyzed in terms of the distinctions used in rights language to bring out their meaning: A moral statement by the former and a legal position of neutrality by the latter. Then it looks into the plausible overlap as well as the disconnect between law and morality to clarify and resolve the issue. Finally, to heighten and conclude the debate, it introduces the question of values as a means to fully address whether and why should religion be taught in government schools.

Key words: religion, values, education, public schools, church and state, law and morality.

Rationale

One issue that swept the public in the post-war period was the subject of religious instruction in public schools. Countless arguments were put forward by different individuals and sectors of society to justify its retention or removal in the public school system. Although it may have died down as a controversy nowadays, still it is a question worth investigating as it may prove sensitive enough to be the source of future disputes. Most of all, what makes this issue an appealing topic of discussion today is its far-reaching implications not only on the ever-problematic yet interesting relation between church and state, but also on the kind of education we would like our children to have, an education which in turn is related to our vision of the good life, of what living in community means and should be.

The question of religious instruction is more complex than what it seems. Implicit in it are other related issues that need to be tackled at the same time in order to arrive at a clear understanding of the problem. They include what both the Church and the State, the two main parties concerned, have to say about religious education, their presuppositions, their relation with each other as well as with the open-ended question of values. The last point cannot be emphasized more since no meaningful understanding of the issue can be reached unless a discussion of what people think to be indispensable to the fulfillment of human and social existence is involved. Distinctions can only go as far as to clarify confusion, but without an excursion to their conception of the good, no explanation of the topic is adequate.

^{*} mquiros@komazawa-u.ac.jp

The Church's Stand

In 1962, the Catholic Church convened the Twenty First Ecumenical Council (Vatican II) in order to re-assess and re-affirm its beliefs in the light of changing social realities. As a result, it came up with a series of documents covering a wide range of contemporary issues which in turn signified a new milestone in the Church's relationship with the modern world.

In two of these documents, namely, the *Declaration on Christian Education* and *on Religious Freedom*, the Church consistently maintains the inalienable right of every man and woman to an education that is not only suited to his and her gender, race, and culture; but also oriented towards the common good and their supernatural destiny. In this regard, every Christian is entitled to a Christian education not only because of his new identity in Christ but also because of its bearing on her salvation. Corollary to this is the view that parents, to whom God has entrusted the duty to bring them up in the ways of the Lord, have the natural and primary right "to determine, in accordance with their own religious beliefs, the kind of religious education that their children are to receive" (Vatican II Documents 1966). This means that in the process of choosing the school that they want their children to go to, parents must be authentically free to obey the prodding of their own conscience. Conversely, this right is violated when "children are forced to attend lessons or instructions which are not in agreement with their [parents'] religious beliefs" or when a single type of educational system, devoid of any religious content, is imposed on all (Ibid.).

For that reason, the government should "out of distributive justice" help individuals and parents to be able to enjoy and to discharge their religious rights and obligations by following the principle of subsidiarity (Ibid.). Positively asserted, this principle means that things which people are not able to do for themselves should be done for them by society – particularly the government which exists for, by, of their account and which controls the resources of the social polity. That is to say, whenever the initiatives of parents and of other groups in society are not enough to educate their children, the government should assist in complementing the task of education with due regard for their wishes. This is especially true in the case of public school students who for lack of resources are not able to attend private schools where their religion is taught. For them, the Church feels a special obligation to be present for their moral and religious education. Thus, as much as possible, temporal conditions should be arranged such that men and women's universal right to freedom of religion and to religious education is fostered and not hindered at all times (Ibid.).

Furthermore, the Church maintains that religious freedom has its ground on the inherent dignity of the human person as a free, rational, and responsible subject created in the image and likeness of God. As such, nobody should be compelled to act contrary to nor be prevented from acting in accordance with her own religious beliefs to the extent that goes against his will, conscience, and rights that are inviolable and inalienable by nature. Every man and woman should be protected from any form of coercion in civil society with respect to his and her faith encompassing both its private and public expression in keeping with their integrity as human beings.

Nevertheless, such right is not altogether absolute. Although it is never denied, still its exercise is subject to regulation as the demand of public order may so require:

The right to religious freedom is exercised in human society; hence, its exercise is subject to certain regulatory norms. In the use of all freedoms, the moral principle of personal and social responsibility is to be observed. In the exercise of their rights, individual men and social groups are bound by the moral law to have

The Issue Of Religious Instruction In Philippine Public Schools:
A Question Of Values? (Michael N. Quiros)

respect for the rights of others and for their own duties toward others and for the common welfare of all (Ibid.).

Having said that, some distinctions are in order. Oftentimes, the unqualified use of ‘rights’ and ‘should’ such as in the assertions above can add up to the complexity of the issue. Thus, the Church’s position would make more sense if analyzed in terms of the distinctions between legal and moral, liberty and claim, two-term and three-term, and positive and negative rights in order to bring out its meaning more fully.

By employing these distinctions, it becomes evident that the Church’s assertion is basically a **moral** right which at the same time is a **claim three-term** right asserted in a **negative** way. It is *moral* in the sense that it is founded on the view that there is a certain objective reality regarding the nature of the human person accessible to reason that everybody must acknowledge; *claim and three-term* because it identifies a third party, the government, as having the duty to respect, protect, and facilitate every man and woman’s right to profess and to practice his and her religion within reasonable limits; and *negative* because although the Church is not saying that the State should bestow every believer the right as if it were a matter of contract, it should not at the very least interfere with it. It is the Church’s minimum demand that, if ever the State does not want to honor nor defend the former’s right to religious liberty, it should not prevent the Church and her faithful from realizing its fullness. Hence, what we have here in effect is not just a claim by the Church for mere religious toleration, but rather a statement of value which subordinates everything in relation to the purposes and ends which the law must reflect: That in order for people to realize their potential to the full, their fundamental right to religious freedom and education must be guaranteed by the government. Such legal guarantee is both the pre-condition of and the necessary condition for one’s overall human, moral, and spiritual development.

The State’s Position

After looking into the ideal and rationale behind the Church’s stand, what does the State in turn have to say and actually provide in the law?

As it stands today, religious instruction is permitted by Philippine law to be administered on an optional basis. According to Article XIV Section 3 (3) of the 1987 Constitution:

At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools within the regular class hours by instructors designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the government.

This in turn is articulated further in Section 928 of the Revised Administrative Code of the Philippines (RACP 1987) that provides:

It shall be lawful, however, for the priest or minister of any church to establish in the town where a public school is situated, either in person or by a designated teacher of religion to teach religion: (1) for one-half hour three times a week; (2) in the school building; (3) to those public school pupils whose parents or guardians desire it and express their desire in writing filed with the principal teacher of the school, to be forwarded to the division superintendent who shall fix the hours and rooms for such teaching.

It should be noted that the provisions cited above serve as partial exception to the general principle of

separation of Church and State on the basis of which no public resources shall be appropriated for the benefit of any church with the intention to establish a state religion. Religion and religious education have not been placed under the ban of the Constitution in such a way that they cannot receive any assistance from the government. As a matter of fact, religious instruction in public schools is allowed because it satisfies the three criteria of permissible government aid (according to *Lemon v. Kurtzman* 1971): i.e., that such instruction (1) has a public secular purpose which is to develop the spiritual and moral character of public school students with the end view of producing God-fearing and law-abiding citizens; (2) does not advance nor inhibit religion in view of the equal consideration and opportunity extended to all; (3) nor does it entail excessive involvement with recipient institutions by not costing the government any more than the usual maintenance of school facilities where religion classes are held during regular class hours.

By virtue of the afore-mentioned legal stipulations, religious instruction has in fact become an elective subject in the public school curricula. It is permitted under the law to ensure the free exercise of religion that includes both the freedom to believe in any system of religion and to act according to it. The first is absolute as the government may not inquire into a person's religious beliefs, whereas the second is more limited because the moment belief translates into action and enters the public sphere, it is subject to government regulation. As the Supreme Court rules in *Gerona v. Secretary of Education* (1959):

The freedom of belief including religious belief is limitless and without bounds. One may believe in anything, however strange, bizarre and unreasonable the same may appear to others, even heretical when weighed in the scales of orthodoxy or doctrinal standards. But between the freedom of belief and the exercise of said belief, there is quite a stretch of road to travel. If the exercise of said religious belief clashes with the established institutions of society and with the law, then the former must yield and give way to the latter. The government steps in and either restrains said exercise or even prosecutes the one exercising it.

At this point, it can be seen that there is no real contradiction between the Church's claims and the State's provisions. In fact, the latter has gone a long way to accommodate the former by way of the government's recognition of its duty to respect and protect every person's right to religious freedom and education under the law. In this aspect, the law is in full agreement with the moral requisites of the Church as there is nothing in it which either "compels somebody to act contrary to or prevent him or her from acting in accordance with his or her convictions" (Vatican II Documents, op. cit.). Instead, what the law does is to provide the space where and the structure by which freedom of religion can be fully realized both in its private and social dimensions while overseeing it at the same time. The state can do nothing less to downgrade and nothing more to promote any religion with the legal provision on the holding of optional religion classes in public schools.

What then is the philosophy espoused by this particular law on religious instruction? What are some of its underlying assumptions?

The main reason for the optional status given to religious instruction vis-à-vis certain constitutional and legal restrictions is the law's intent to be neutral amidst competing claims. It is the kind of neutrality which is not based on the old concept of 'real, entire, and absolute' wall of separation between Church and State, but rather on the impartial consideration and equal opportunity which everyone can lay claim to under the law. In this way, the religious freedom of individuals is insulated from the arbitrariness of government decisions that give one group undue preference over others in the course of resolving their differences. In a society of conflicting interests, what the law envisions is the protection of individual liberty at all times in a manner that prevents harm to others.

The Issue Of Religious Instruction In Philippine Public Schools:
A Question Of Values? (Michael N. Quiros)

But can arbitrariness be avoided? Can the law on religious instruction satisfy all or none at all? Can it really be neutral in the face of contested visions of what society is and the role of religion in it?

In a somewhat analogous topic, this is also the line of thinking pursued by R.M. Unger in his critique of the Western liberal worldview. He asks how is it possible for the law to be both general and concrete, neutral and yet definitive as envisioned by liberals in response to the problem of order and freedom in society. How can order be instituted in a way that no one's freedom is unduly preferred or downgraded so that everyone has the largest amount of liberty compatible with the absence of such arbitrariness? It is a question that surely comes up during legislation and adjudication when legislators and judges cannot help but draft and apply the law in relation to particular cases in favor of a group among others. That is why for him, arbitrariness by the law is inevitable (Unger cited in Riordan 1991).

Similarly, the law on religious instruction can be said to be unavoidably arbitrary. For whether it adopts a 'hands-off' or 'support-all' religions policy, it leaves the status quo of disparity among religious denominations unaltered. The refusal to choose is a 'choice' in itself in that it allows the reproduction of dominant religious groups to perpetuate themselves in the public domain such as in state-funded schools. In other words, through its self-imposed veil of neutrality, the law does nothing to promote a level playing field between mainstream and minority faith bodies. This is shown by the fact-on-the-ground that the religion classes being held in some public schools today are mainly those of the Catholic faith in pre-dominantly Christian Philippines. Having a stand is inescapable after all and that a neutral position is most likely an illusion. On the contrary, HLA Hart argues that although it is true that the law promotes the welfare of some at the expense of others, still it can be seen as for the sake of the common good insofar as all competing claims had been equitably considered prior to enactment (Hart op. cit.). His idea corresponds to what is referred to as the 'equal protection of the law' or 'equality before the law' in which everybody regardless of background is afforded the same access to and treatment under the law such that nobody is below or above it. The same is true with the incumbent law on religious instruction which shows its equitable treatment of various religious groups by giving the same opportunity to teach their respective faiths in public schools as far as existing resources would allow.

The Church and the State: Law and Morality

To better appreciate and illustrate the dynamic between church and state as played out in the issue of religious instruction in the public schools, it would be meaningful to delve into the subject of law and morality. As the social embodiment of the said two institutions, not only do they show the interplay between them but they also draw the line between where and when the jurisdiction of one ends and that of the other begins. In the end, both only serve to highlight as much as to tie up the present discussion on the issue at hand.

There exists a much more dynamic relationship between law and morality than what is commonly supposed. On one level, this can be seen on how individual or social morality influences the content of existing legislation. Examples are laws which de-criminalize abortion, divorce, euthanasia, and prostitution as a result of changing moral standards over time. On another, it is possible that the enactment or repeal of a law can also cause the birth or decay of a moral tradition (Ibid.). Although occurring less frequently, it is the law which drives morality this time and not the other way around as it is often the case. Moreover, there is the view by Hart which describes morality as a particular stage in the evolution of society. According to him, it is the necessary stepping-stone toward society's shift from the pre-legal world characterized by primary or

moral rules to the legal system of secondary rules (Ibid.). These are just some of the ways by which law and morality are linked with each other.

Still there is no necessity in the relationship between law and morality: That what is legal is not necessarily moral, and vice-versa. Whatever they have in common – e.g., their binding nature on a great many situations, the conformity and personal sacrifices they demand, the pressure they exert on people to obey – is merely contingent in nature. One reason for this is that the validity test of the law does not depend on its morality or lack thereof but rather on formal requirements (such as whether it was passed by Congress or approved by the President or mandated by court). That is why a law (e.g., legalizing gambling), no matter how morally disagreeable remains enforced until it is repealed. The opposite case also applies wherein the law, for example, can insist on the payment of damages for injury caused by unintentional and thus morally pardonable acts. These instances only go to show that the law has other important grounds and concerns aside from morality alone. They are the maintenance of public order and security, the equal protection of rights, and the promotion of the general welfare – all of which can be collectively called as the public interest whose determination usually involves a weighing of the harm and the benefits that may accrue to society. Consequently, situations may arise in which morally prohibited activities are legally permitted. A case in point is the debate regarding the legalization of prostitution. Those who are in favor say that since it is going to happen anyway in one way or another, it might as well be permitted under a license in order to control the spread of diseases and of crimes that result from this kind of job. This pragmatic argument assumes that in determining the content of the law, its function is not so much to enforce a moral principle as to protect public welfare. Because its primary concern is the prevention of harm to others, the law is particularly interested in the effects of people's actions rather than in the moral intention behind them. As Riordan (1991) puts it:

The establishment and maintenance of public peace and national security is the overriding purpose of the law. There is no natural law, or natural justice, or objective values, which public morality or the law of the land ought to incorporate and to uphold and so there is no moral standard in terms of which the operation the law could be assessed and criticized, other than the criterion of effectiveness in securing public peace.

Relating the foregoing discussion to the subject at hand, it is already fortunate that religious instruction in Philippine public schools is permitted legally. The situation in the Philippines stands in stark contrast with that in the US where mere Bible reading and praying at public schools are immediate grounds for lawsuits. However, in view of the distinctions made above between law and morality, it does not mean to say that the State acknowledges the importance of religious education on the same grounds as those held by the Church. It can be that the State grants it only as a compromise with various religious groups clamoring for such in compliance with its duty to ensure the equal protection and enjoyment of human rights under the law. It can also be on account of public order, something similar to the reason given for the legalization of prostitution: That since religion and its propagation is something which cannot be avoided in and outside school, it would be better to allow it instead subject to certain regulations. In this manner, school authorities are able to supervise its conduct within school premises and hours. Or it can be in view of public welfare – in recognition of the great need for character training among the school population since the State also has an interest in the formation of its future citizens. At any rate whatever purposes the law has in this venture, they are a-moral, that is, without necessarily considering moral principles as the basis of decisions. And whatever things law and morality may seem to have in common, they are purely and fortuitously accidental.

A Question of Values?

The present law on religious instruction is the most liberal measure compatible with the requirements of both the Church and of the State that guarantees the independence of one from the other. Nobody can ask for more in this regard. Any attempt to reduce or enlarge its scope will only disrupt the critical balance enjoyed by all parties at the moment. It is by far the most satisfactory way by which both the Church and the State can pursue their respective goals in the most unrestricted degree on parallel tracks.

If so, what then is the point of teaching religion in the public schools? Why is it embodied in both the Church's teachings and the Constitution? Why is that people have different views about it? And why is it an issue in the first place? What is so important about it?

The answers to these questions are not easy and clear-cut. The very fact that they arise points out the inherent inadequacy of mere analysis and distinctions. Neither can their answers be found in the law itself for they define its limits and go beyond its scope. In short, what is at stake here are not mere concepts but values: People's vision of the good life that is worth living and passing down to their children – the ideal of the human person and of society which they would like to orient their lives to, work for, and upon which they can evaluate their progress in it. As one author says:

The limits of law can only be answered or resolved by including to its discussion the question of values. We need values to guide us in assessing consequences and facts and in order to weigh competing interests. We cannot specify the limits of the law without indicating the values that the legal system should promote. We need at least a provisional conception of the good life, in which freedom is an ingredient (Riordan op.cit.).

Applying this point now to religious instruction, no sufficient understanding of this issue can be reached without a similar appreciation of the way people regard it to be significant enough to shape their lives. The Church offers one way of looking at things from a moral viewpoint while the State does so from a legal secular perspective which does not explicitly and necessarily reflect the same end. What is needed, therefore, is an examination of the times when government authorities and ordinary citizens alike give their justifications to their decisions and actions in relation to specific problems and cases – indeed to matters of legislation, administration, and adjudication wherein the spirit and the hidden purposes of the law such as on the teaching of religion in government schools are made manifest. That is when people's tacit visions of what is good for one and all, for the individual and society, are voiced and played out either in concert or in clash with one another. In the final analysis, there is no such thing as 'value-free' law; every law has values incorporated in it, whether acknowledged or not. For this reason, it makes more sense to view the law as value-laden – to the extent that the limits of these values define the limits of the law – to make better sense of its nature, purpose, significance, and impact in the world.

BIBLIOGRAPHY

Documents of Vatican II Council.

Full-text online: http://www.vatican.va/archive/hist_councils/ii_vatican_council/index.htm

Accessed: 30 November 2019.

Hart, HLA. *The Concept of Law*. Clarendon Press. 1997.

The Philippine Constitution of 1987.

Full-text online: https://www.constituteproject.org/constitution/Philippines_1987.pdf?lang=en

Accessed: 30 November 2019.

The Revised Administrative Code of the Philippines 1987.

Full-text online: <http://www.chanrobles.com/administrativecodeofthephilippines.htm>

Accessed: 30 November 2019.

Riordan, Patrick. "The Plausibility of Arguments for the Common Good." *Milltown Studies*. 28 (1991): 83-92.