

THE SIGNIFICANCE OF THE CODIFICATION OF PHILIPPINE MUSLIM LAWS

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Before anything else, I would like to thank you in behalf of the Executive Secretary for the honor of addressing you in this conference on Islam in the Philippines and Asia. I feel very deeply that this is an honor because of the revolutionary and historical implication that a conference such as this has, particularly with Muslim customary and Qur'anic law as its theme. In this connection, I would like to commend the Ateneo de Davao for hosting this conference. One conversant with Jesuit participation in the Spanish campaigns in Moslem Mindanao will surely praise God after saying with some wonderment, "How things change!" But then one may not fault people of past centuries for not manifesting values held today. Times change and people change, and one reason I feel excited about this conference is that it seems very much part of a change remolding the Filipino sensibility.

"Tout comprende c'est tout pardonner," say the French: to understand all is to forgive all. I think this could easily be the epigraph of this new chapter in our history, our bloody history — Christians and Muslim Filipinos, Christians and Muslims. Ecumenism is, of course, hardly anything new to the Muslim. The Qur'an enjoins respect for all men of religion, particularly Christians and Jews, and it is on record that Maguindanao and Sulu sultans have always treated Spanish missionaries with courtesy. *"Tout comprende c'est tout pardonner"*: our lesson in our faiths and histories, a necessary lesson, I think, particularly in view of our histories — Christians and Muslim Filipinos.

History is strange. It casts people in unpredictable roles, and we are no exception. Just as history threw our ancestors together on these shores, so has it imposed a cleavage between many of us in these islands, a cleavage we are now trying to bridge.

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Look how strange history is.

In the fifteenth century, different peoples populated these islands, peoples who spoke different languages and yet whose languages had sprung from the same linguistic tree, people whose communities shared surprising similarities in social structure and yet were completely independent of one another, warring, competing, allying, and trading with one another.

At this time, Islam had reached the shores of the Tausogs and the Maguindanaos in Mindanao and was on its way to the Tagalogs in Luzon. The other peoples continued worshipping their ancestors and spirits in trees, fields, strange birds, and even stranger phenomena like the lightning and the rainbow.

Advance the clock of history two centuries, and we see an altogether different picture. This time a foreign power rules the people of the northern and central isles and wages war against those of the southern isles.

The people of the northern and central isles profess the faith of Christ. The multitude of small communities cluster around towns at the heart of which stand churches of stone or wood and nipa. On the other hand, the southern peoples, particularly the Tausogs, Samals, and Maguindanaos, have grown in Islam.

By the middle of the seventeenth century, the ruler of the Maguindanao takes on the title "Sultan," an appellation by which the rulers of Sulu have been known for more than two centuries by this time. At this time, too, the seed of Islam has been planted among the Maranaos. The foreign rulers of the Christianized peoples war against the Muslims, using their Christian vassals as soldiers. The Muslim peoples for their part defend their sovereignty and at certain periods raid the Christian towns of the central isles.

Let us advance the clock two more centuries. This time, in the nineteenth century, the Christian peoples have developed a common culture. A number of them study in schools established by their foreign rulers.

By the end of the century, they have revolted against and overthrown their foreign rulers. The Muslim peoples have, for the most part, retained their independence. True, the foreign rulers of the Christian peoples had forced pacts upon Sulu and Maguindanao by the latter half of the century, but the growth of the foreigners' influence was nipped in the bud, so to speak, by the fall of their government in Manila. At this time, the Christian peoples had started to

refer to themselves as ONE people, and even more important, certain of the more enlightened Christian peoples had begun to call the Muslim peoples of the south their "Brothers."

A new Malay nation is born.

Today, the process of birth is not yet completed. The foreign rulers are gone, and a nation has been proclaimed, embracing the Muslim and Christian peoples of this archipelago. But a nation does not spring full-grown from the brows of its people. A nation's birth, as with any birth, is accompanied by hardship, blood, and pain.

To complete the birth of our nation, one crucial task we all have to accomplish, Christians and Muslims alike, is to leap over the cleavage cast by history between the Christian and Muslim peoples of these islands. We must heal the wound. We must be one. Otherwise, our nation will not see light.

Quo vademus? What is oneness? It is only now, I think, that we have begun to realize what the correct answer is to this question. Oneness, to start with, is *not* uniformity. Oneness is harmony, in other words, a unity comprised by opposites; not one and yet one, unity in plurality.

In a sense, in our short existence as a sovereign state — just twenty-seven years, we have been fooling ourselves thinking that we may easily apply a name, that is, "Filipino," to ourselves and our ancestors. We talk of Filipinos in the sixteenth, seventeenth, and eighteenth centuries when we may in truth only talk of Tagalogs, Pampangos, Bikolanos, Ilokanos, Ilongos, and Cebuanos. It is only in the very late nineteenth century that "Filipino" came to mean a member of a nation inhabiting these islands; it is only in this century that it took on the definite denotation of a specific nationality.

The Filipino is new, born just the other day; thus, it should come as no surprise if there are still so many who are "un-Filipino," that is, who behave as though they were not members of a nation. But then it does come as a surprise — to so many.

Why? Because we have been educated to view our history from Spanish contact to the present time as the history of a "nation," as though it were a nation that Magellan had come upon in 1521. Nothing is further from the truth, of course; Magellan first met Warays and later fought Cebuanos.

We have not been educated to view our present history as the history of different peoples developing into one, as the history of a nascent nation. As a result, we bandy the terms "Filipino" and

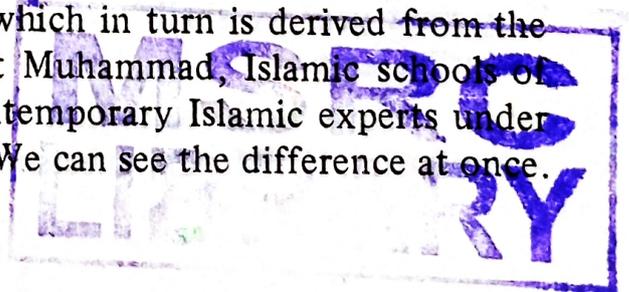
“Philippine” carelessly, applying it to all the sundry on these isles. Correct but only in a geographic sense. We call our Christian brothers, for example, “Filipinos,” which implies a history of subjugation to the Spanish crown which our Muslim brothers fought throughout their recorded history. A history of fighting in order not to become a Filipino is precisely our Muslim brother’s claim to an auspicious place in the history of the nation.

What the Christian Filipino has not realized is that a respectable percentage of our country’s population has a different historical experience from the rest. The Christian Filipino’s ignorance of this historical fact has led to acts of injustice, all the more tragic because they have not been conceived in malice.

There are two particularly grave defaults of justices: one is the presentation of Muslim Filipino — forgive the use of the term which is used purely for convenience while we do not yet have a new name — the presentation of Muslim Filipino history in school texts; the other is the imposition of a legal system upon Muslim Filipinos that disregards their historical experience. The first has succeeded in perpetuating twisted views of Muslim Filipino history, thus deforming the Christian Filipino’s perception of his Muslim brother and committing violence to the Muslim Filipino’s perception of his own past and place in the nation. The second, a graphic form of cultural oppression like the first, works this time not on the people’s minds but rather on their mores, doing violence to their way of life. Both of these failings result from an ignorance of Philippine history and a lack of appreciation for the Muslim Filipino, and the correction of both these shortcomings will have to be accomplished first before unity can be achieved.

It is within this context that we should view the codification of Philippine Muslim laws. The codification is being undertaken in response to the barest demands of justice. Indeed, the absurdity of the present situation may immediately be seen by merely reflecting on the societies that produced the models after which Philippine state and Philippine Muslim laws are patterned.

The one is a compendium of influences from Roman civil law, Anglo-American law, and the Spanish penal code; the other a union of customary law and Islamic law which in turn is derived from the Qur’an, the sayings of the Prophet Muhammad, Islamic schools of thought, and the consensus of contemporary Islamic experts under the leadership of the Grand Imam. We can see the difference at once.



One is a product of Christian societies; the other of Muslim communities.

The Muslim Filipino is forced to comply with Christian concepts of marriage and marital dissolution and with Western European notions of personal status, property and inheritance, and endowments, which is why the status quo should be obnoxious to any true Filipino nationalist. The present state of affairs has resulted only in separating millions of people from the rest of the populace, retarding the birth of this nation.

The codification then of Philippines Muslim laws is eminent in the present task of nation-building. The research staff charged with this duty aims at two major innovations in the Philippine legal system: the first is the establishment of an administrative body to be known as the "*majles Agama Islam*." This body will oversee the enforcement of Islamic law and the *adat* in Philippine Muslim communities. Under it shall be an arbitration council and *agama* courts, the latter being the traditional form of justice in Philippine Muslim society. The second innovation involves substantive law, and this covers the subjects of marriage, divorce, personal status, property and inheritance, and *waqf* and endowments. ✓

How shall the research staff go about its task? In general, there are two major phases in their work. The first phase involves research during which material will be collected on Islamic law. The second phase involves field work during which the members of the staff, who number ten, will travel for two months in Lanao, Cotabato, South Cotabato, Davao, Zamboanga, Sulu and Basilan, holding public hearings to find out how the *adat* of the various Muslim communities confirms or deviates from orthodox Islamic law. Only after this will the staff start work on the legislation that will incorporate Islamic law and Philippine Muslim customary law. At present, the staff is on the research phase and is finishing certain aspects of the project such as survey of materials in the Manila area for a bibliography, the indexing and collation of these materials, a description of Islamic law, and an outline of the *adat* that may be covered by particular topics. The staff hopes to start on its field-work before the end of this month or by early October. God willing, by next year we shall have completed the codification of Philippine Muslim laws.

I have been told that during a briefing for foreign Muslim dignitaries, the Muslim guests registered a perceptible change in facial

expression when Secretary Melchor mentioned this project — the codification of Philippine Muslim laws. I was told by a Muslim friend that this was an eloquent indication that of all the efforts attempted so far to bring about unity in this island, this project involving Islamic jurisprudence strikes closest to the Muslim's soul.

And indeed who will insist that a full stomach but a parched soul is what our Muslim brothers desire? I suppose we have finally begun to understand the insight known for a long time by Oriental philosophers and only recently rediscovered by Western thinkers — that fullness of being is pre-eminent to any man's humanity. What I mean is simply that the birth of this nation and much more, much much more, resides in every Muslim's becoming more Muslim and every Christian's becoming more Christian; in other words that Islam which is surrender to God's will and Christianity which prays that God's will be done on earth should flourish deeply and reach fruition in the Muslim Filipino's or the Christian Filipino's heart before this nation can be.

And so again we see that the unity to be striven for is hardly one of uniformity; it will have to be a unity achieved not by individuals striving to look, act, and think alike, but rather by individuals stressing their uniqueness. Thus, the Christian will have to be more Christian, and the Moslem more Moslem, the Tagalog more Tagalog, the Maguindanao more Maguindanao, the Ilokano more Ilokano, and so on. Out of this mutual recognition and acceptance of each one's uniqueness will issue the nation, simply because when one stresses one's uniqueness, one sees more clearly the potentialities one has and the unique manner by which one may help others. Indeed, we should hang our heads in shame should Christianity or Islam ever become an obstacle to unity. Allah does not close the gates of Paradise to Christians and Jews, and Christ accepts all.

Thank you. May God shower us with more light.