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EDITOR'S NOTE

Welcome to this 2024 Online Issue of *The UST Law Journal*, where we continue our commitment to providing thoughtful and rigorous analysis of the most pressing legal questions of our time. In this edition, we explore a diverse range of topics that reflect the ever-evolving landscape of law, from emerging constitutional debates to the latest developments in judicial reform governance and international human rights.

As we publish this issue, our field is at a critical juncture. Legal practitioners, policymakers, and scholars are grappling with complex challenges—from the intersection of law and critical legal philosophies to the shifting dynamics of ethics, judicial reform, and economic implications in an increasingly globalized world. This journal aims to serve as a forum for cutting-edge research, fostering dialogue among those who seek to understand, shape, and respond to these challenges.

We are particularly excited to feature a series of articles that delve into topics of great contemporary relevance, such as strengthening Filipino's cultural heritage, the governance structure of the criminal justice system and judicial reforms, the evolving narrative on constitutional change, legal-philosophical norms of public morality, and the notion of justice. These contributions advance academic discourse and provide valuable insights for legal practitioners, academe, and jurists navigating the practical realities of law in today's fast-paced, interconnected society.

As always, we are grateful to our contributors for their expertise and dedication and to our Editorial Board for their tireless efforts in bringing this issue to fruition. Through their hard work and commitment, we can continue to produce a journal that meets the highest standards of scholarship and impact.

With its foundational commitment to encouraging broader discussions through diverse legal perspectives, this issue aims to foster deeper insights for the Philippine legal community. We hope this issue sparks thoughtful reflection and inspires new avenues for inquiry in the legal profession. Thank you for your continued readership and support.

Sincerely,

IRENE D. VALONES, DCL, DPA

Editor-in-Chief

December 5, 2024

**THE INSUFFICIENCY OF SECULAR AND PUBLIC MORALITY IN
DETERMINING THE PREVAILING NORMS OF CONDUCT: A
PHILOSOPHICAL ANALYSIS OF THE *CHERYL SANTOS LEUS V. ST.
SCHOLASTICA COLLEGE WESTGROVE (SSCW) CASE***

By:

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ABSTRACT

Morality is usually associated with religious origins, foundations, and tenets. In a Christian-dominated country, the basic notion when it comes to morals is the *Decalogue* or the Ten Commandments. Filipino values are also integrated with Christian moral values. In the Muslim areas of our country, the common theme of moral perspective in their society is based on the Five Pillars of Islam. However, morality is not always religious or religiously based. There are moral theories that are formulated out of philosophical means, that is, by using human reason. These philosophical, moral theories provide rationally designed moral codes and standards. Determination of the quality of human acts is the core function of moral theory, whether religious or philosophical moral theory.

The Court, in the case of *Leus v. St. Scholastica College Westgrove*, elucidated another moral perspective: secular and public morality. Secular and public morality, as argued by the highest tribunal, “should determine the prevailing norms of conduct, not religious morality” because secular and public morality “have an articulable and discernible secular purpose and justification to pass the scrutiny of the religion clauses.” In this article, it is contended that secular and public morality cannot provide a definite answer about the quality of the human act because it does not have any rationally designed moral codes and standards. Secular and public morality is insufficient to be a definitive standard in determining the prevailing norms of conduct due to the incompleteness of its moral structure.

Keywords: secular and public morality, norms of conduct

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I. INTRODUCTION

What determines the quality of our actions? How can we say that our actions are right or wrong? Where do we listen to know which is right or wrong? These are some of the fundamental questions about the morality of human actions. These questions are essentially related to the realm of ethics and moral philosophy. If we investigate several philosophical, moral theories, we can see their differences in terms of the determinants of morality: the intention of the act, the act itself, and the circumstances of the act. For consequentialist ethics, for instance, the goodness of the human act depends on its benefits to the greatest number of people (or majority). If most of the people benefit from it, then it is good. However, for deontological ethics, the action can be good if it is anchored on rules and laws (or imperatives). Regardless of the end, if the means of reaching its end is detrimental to laws, it is bad. So, to speak, moral determinations of the quality of human actions may vary depending on the adhered moral theory. It may be good on one side, but not on the other. The morality of the actions is not merely theoretical nor an abstract reality. Morality also affects the lives of the individual and society. Even if the action is done by a certain individual, his action affects the other. This also serves as the guiding compass or norms for day-to-day living, commercial operations, public service, education, professions, and social conventions. In *Cheryl Santos Leus V. St. Scholastica College Westgrove (SSCW)*,² the Supreme Court of the Philippines elaborated that “public or secular morality should determine the prevailing norms of conduct, not religious morality.”

In this article, the author argues that public or secular morality is an insufficient measure for determining the prevailing norms of conduct due to its mutability and incompleteness. The first part of the article deals with the chronological development of moral theories, which presents a brief discussion about the emerging moral theories throughout human history from the Ancient Greek philosophers up to the contemporary era. It also points out morality’s independence from a religious viewpoint. The second part discusses the case of *Cheryll Santos Leus v. St. Scholastica’s College Westgrove and/or Sr. Edna Quiambao, OSB*, in which the Supreme Court denotes public and secular morality as the basis of the norm of conduct. The third part pertains to the context of public and secular morality within the lens of *Leus* case, which elaborates why the court preferred secular and public morality as the basis for the norms of conduct. The fourth part deals with the implications of applying the said morality to the public. The fifth

² *Cheryl Santos Leus v. St. Scholastica College Westgrove (SSCW) and/or Sr. Edna Quiambao, OSB*, G.R. No. 187226 (2015).

part explains the secularistic processes in public office. The sixth part provides arguments why secular and public morality is insufficient to be a basis for norms of conduct, the main topic of this article. The seventh part points to the significance of incorporating philosophical and moral theories in the legal world, especially in the resolutions or rulings. Lastly, the final part suggests that secular and public morality can be sufficient if they contain distinct moral reasoning and impartiality.

II. DEVELOPMENT OF MORAL THEORIES: A BRIEF DISCUSSION

From a philosophical perspective, many ethical and moral theories have sprouted throughout the centuries. The formulation of moral theories started with the ancient Greek Philosophy. Renowned Greek philosophers such as Socrates, Plato, and Aristotle came up with the idea of achieving the person's end or ultimate goal. To them, our actions are directed to a respective objective for the sake of our liberation from uncertainty and unreasonableness. Socratic morality is grounded on the notion of knowledge as virtue. Life is not worth living if we do not know ourselves. Being conscious of our being and acts would make us realize the purpose of our existence. This also guides our acts, which bring us to our happiness. Platonic moral theory pertains to the cleansing of man's soul. This can be achieved by recollecting man's "innate ideas" through learning (education) and asking questions (or argumentative dialogue) about human values (Socratic method). As also discussed in his famous "*Allegory of the Cave*,"³ where the one who was able to escape from the *darkness* of the delve is the one who has reached the enlightenment of his soul. This points out that for Plato, for us to be good, we have to enlighten ourselves with ideas (from the Theory of Forms) and not mere materialistic values (from this material world). Aristotelian morality, distinct from its predecessor's ideas, focused on the attainment of good using human reason. Our acts must be based on reason. Reasonableness should be considered in making decisions in life, performing particular acts, and achieving something in life. In sum, their common themes are the following: doing good acts for the sake of self-development, good deeds for character build-up, purification from a materialistic attitude, maintaining the golden mean, prevention of extremism, and end-driven (*telos*) actions. This means that every human action has its purpose and end, that is, towards the good.

In the Middle Ages, famous scholastic philosophers like St. Thomas Aquinas, grounded in Aristotelian philosophy infused with Christian theology, proposed that actions must be aligned to the precept of the natural

³ One of Plato's famous and important passages in his *The Republic*.

law: do good and avoid evil.⁴ On the one hand, doing good will grant perfection in terms of the beingness of the human person. Doing bad will lessen the perfection of the person's being. It is said that evil is the privation of good (being). In the modern era, the famous ethical theory of Immanuel Kant, Kantian Ethics, with its Categorical Imperatives, provided a new ethical perspective. Kantian Ethics is also called deontological ethics where actions must be based on imperatives (command, rule, and order).⁵ In other words, these imperatives must be the guiding compass of all human acts. One of Kant's categorical imperatives is the universalizability principle, in which one should "act according with that maxim through which you can at the same time will that it become a universal law."⁶ In the contemporary era, several famous ethical theories can be seen: utilitarian ethics, the nihilism of Nietzsche, John L. Mackie's moral skepticism, justice as fairness of John Rawls, and even the revival of scholastic philosophy, the Neo-Thomism or Neo-Scholasticism.⁷

Moreover, not all ethical and moral theories are purely philosophical in nature. Some are influenced by religious teachings.⁸ Namely, there are Christian ethics (based on the teachings of Christ and of the Catholic Church), Islam ethics (based on the teachings of the Quran and Sharia), Judaism ethics (based on the rabbinic interpretation of the Torah), and Buddhist ethics (based on the teachings of Siddhartha Gautama Buddha). Unlike in philosophical, moral theory, in religious-based moral theories, good actions are mostly rewarded with the following: salvation, spiritual cleanliness, spiritual enlightenment, reward in the afterlife, good karma, deliverance from evil, protection from wickedness, liberation from evil deceit, and favorability in the eyes of the deity. Omission of good deeds will cause the opposites of the rewards: damnation, spiritual punishment, attack from evil spirits, deception, slavery of sin, and spiritual corruption. If, in philosophical ethics, actions do not have physical impacts (in the doer), religious morality suggests supernatural impacts.

The history and evolution of ethical-philosophical theories tell us that some ideas are better than others. Not a single moral theory is enough to answer all ethical problems. Some concepts lack one or more supporting arguments. There might be a "best" theory, but it cannot be accepted by the

⁴ St. Thomas Aquinas adhered to the Aristotelian thought. He aligned the philosophy of Aristotle with Christian Theology to explain its concepts and nature further.

⁵ In Immanuel Kant's *Groundwork of the Metaphysics of Morals* (1785), he highlighted that categorical imperatives are immutable and absolute rules and standards for human acts. These measures do not depend on the outcome (consequences) or ends of the act.

⁶ Muscente, K. (2020 July 13). Categorical Imperatives and the Case of Deception: Part 1. *Teachers College Columbia University*. <https://www.tc.columbia.edu/institutional-review-board/irb-blog/2020/categorical-imperative-and-the-case%20for%20deception-part-i/>

⁷ Several moral theories emerged in the contemporary era, some are reactions to the previous and existing theories, and others are modification or improvement of the former ideas.

⁸ This refers to moral theology, where the moral structures are based on religious teachings.

majority. That is why a somewhat problematic discipline arises: ethical relativism. Ethical relativism claims that there are no correct absolute moral standards or principles. Every person can have their own moral code. Right on one thing may be wrong on the other. This is because of the conflicting theories, differences, incompatibilities, and lack of universality of ethical knowledge.⁹ Also, because of this, ethical skepticism (doubtful attitude towards morality) and nihilism (total absence of morality) came to be. The plurality of ethical standards somehow intensifies the concept of ethical relativism.¹⁰ This makes it even more difficult to identify which is which. That is why, in relation to the subject of this article, magistrates in the civil courts choose not to follow diverse philosophical, ethical, and moral theories in determining the prevailing norms of conduct. Instead, courts intended to follow a secular and public one for the sake of fair, equal, unbiased, and unprejudiced pronouncements. However, secular and public-based morality is not even totally substantial enough to be used as determinants of prevailing norms. This also has some loopholes that can be filled with arguments from philosophical-ethical theories. Is secular morality complete in itself?

III. CHERYL SANTOS LEUS V. SSCW:¹¹ AN ANALYSIS

This case pertains to the dismissal of Cheryl Santos Leus, a non-teaching employee of St. Scholastica College Westgrove (SSCW), a religious and sectarian educational institution. She was dismissed due to her pregnancy out of wedlock or alleged to have a pre-marital relationship with her boyfriend. The school further argued that her dismissal was caused by her “immoral act,” as also defined by the school’s policy guidelines and the 1992 Manual of Regulations for Private Schools or 1992 MRPS. Under Section 94, the 1992 MRPS provided that any school personnel can be terminated if he/she committed “disgraceful or immoral conduct.” As a Catholic educational institution established and administered by the Missionary Benedictine Sisters of Tutzing, the ground of her dismissal is likewise based on the traditional Catholic teachings and spirituality of St. Benedict. SSCW added that her alleged immoral acts can destroy the reputation of the school (and of the Catholic Church since it is a Catholic school), and she may poison the minds of the students since she is an employee of SSCW. As stated by the SSCW, their employees, whether teaching or non-teaching, are expected

⁹ Limitation of the human knowledge caused the differences in moral theories.

¹⁰ Despite the rational defense of the proponents and adherents of the existing moral theories, moral skeptics deny the existence of “moral standards” due to differences and contradictions. Again, this is a result of the limitation of human knowledge. A human person cannot cover all knowledge at one time. It takes the process to formulate a concept or to obtain knowledge of reality (mental and external). Also, due to this limitation, the formulated concepts are not expected to be perfect in its essence and being. There would be loopholes and discrepancies. But what matters here, is that, we are able to rationally construct and argue moral ideas.

¹¹ *Cheryl Santos Leus*, G.R. No. 187226 , January 28, 2015.

to be models of morality and the epitome of Catholic spirituality. Consequently, the SSCW administration decided to dismiss Leus.

To justify and defend her cause, Leus filed a case before the Labor Arbiter and the National Labor Relations Commission (NLRC). Both decided and resolved in favor of the SSCW's decision. According to the resolutions of the aforementioned, her dismissal is legitimate and appropriate, considering the following surrounding circumstances: she was employed in a Catholic school, a sectarian educational institution that follows the teachings of the Catholic church; committed an immoral act that stains the integrity of the school and its principles. As a school employee, she is expected to follow ethical norms, and her so-called "immoral act" can taint the minds of the students. She then filed an appeal before the Court of Appeals (CA) however, the CA affirmed the said resolutions and denied her appeal. Leus filed a petition before the highest tribunal for review on certiorari seeking to annul and set aside the CA decision. After considering the case at bar, the Court granted her petition for the following reasons:

- a. There is no substantial evidence to support the claim of committing a "disgraceful and immoral act";
- b. There is no substantial evidence to support the claim of causing scandal due to premarital pregnancy;
- c. The Labor tribunals' resolutions are decided arbitrarily due to the absence of substantial evidence.
- d. The prevailing norms of conduct and applicable laws must be the basis for assessing an alleged "disgraceful and immoral act";
- e. Public and secular morality must be the basis of norms of conduct, not religious morality.
- f. The premarital pregnancy of Leus and her sexual relation with her partner are not tantamount to a "disgraceful and immoral act" since both with partners did not have any legal impediments to marrying; and
- g. SSCW's decision to dismiss Leus from her employment is not a proper exercise of "management prerogative."¹²

The highest tribunal annulled and set aside the conclusions of the Labor tribunals. The court also granted her entitlement to separation pay, full back wages, and attorney's fees.¹³

IV. THE CONTEXT OF PUBLIC AND SECULAR MORALITY AS DISCUSSED IN THE *LEUS* CASE

¹² Cheryl Santos Leus, G.R. No. 187226, January 28, 2015.

¹³ Cheryl Santos Leus, G.R. No. 187226, January 28, 2015.

The *Leus* case provided an argument for why public and secular morality should be the basis for determining the norms of conduct instead of religious morality. The Court in *Leus* case quoted some statements from the case of *Alejandro Estrada v. Soledad Escritor* (2003)¹⁴ that explained the same:

"Religious teachings as expressed in public debate may influence the civil public order but public moral disputes may be resolved only on grounds articulable in secular terms." Otherwise, if government relies upon religious beliefs in formulating public policies and morals, the resulting policies and morals would require conformity to what some might regard as religious programs or agenda. The non-believers would therefore be compelled to conform to a standard of conduct buttressed by a religious belief, i.e., to a "compelled religion," anathema to religious freedom. Likewise, if government based its actions upon religious beliefs, it would tacitly approve or endorse that belief and thereby also tacitly disapprove contrary religious or non-religious views that would not support the policy. As a result, government will not provide full religious freedom for all its citizens, or even make it appear that those whose beliefs are disapproved are second-class citizens. Expansive religious freedom therefore requires that government be neutral in matters of religion; governmental reliance upon religious justification is inconsistent with this policy of neutrality."

It is understood that the context of the applicability of public and secular morality is within the bounds of the Court. In other words, for judicial issues concerning "disgraceful and immoral acts" or any wrongdoings related to this, the basis of the courts and all competent tribunals, arbitral, and adjudicating bodies must be based on secular morality and applicable laws. This is also applicable to grievance committees in every institution, office, or agency. Following the same, even in sectarian institutions (Catholic, Protestant, Confucian, Islamic, or any religious schools and offices), the basis of determining such wrongdoing must be secular morality, not religiously inclined morals. Religious-inclined measures and standards must not be the grounds for any actions against their erring employees. As stated by the Court, this is to ensure the exercise of "freedom of religion" guaranteed by the fundamental law. Not all employees who worked in the sectarian institutions were theists or God-believers. Some of them might be atheists and agnostics. Atheism, though it suggests the absence or non-existence of a deity, is also protected by the religious freedom clause of the Constitution. Basically, if a sectarian employee does not believe in God, he/she must not be dismissed or terminated from employment because of his/her belief. The Court in the

¹⁴ A.M. No. P-02-1651, August 4, 2003.

Leus case explained that should religious-based morals be applied in disciplining the employee, regardless of his/her beliefs, he/she would be forced to succumb to it.¹⁵ This is tantamount to coercing someone to believe or accept an action based on a particular religious tenet. That is an example of a violation of the religious freedom clause of the Constitution.

Furthermore, the Court in the *Leus* case wanted to remind us that all actions concerning discipline, corrections, punishments, and sanctions against any erring person (natural or juridical) must be void of any religious influence or subjects. In the Philippine criminal justice system, for instance, felonies are defined according to the human positive laws (public laws): an act or omission punishable by law (in this case, by the Revised Penal Code). Also in its basic doctrine, it is stated that “there is no crime if there is no law punishing it.” Whatever laws punish crimes, it is purely secular and public in nature. There is no religious foundation in it. Murder is a crime because it is punishable by RPC, not because the fifth commandment of the Decalogue forbids it. The *Leus* case also states that laws may have its religious roots “but it must have an articulable and discernible purpose and justification to pass scrutiny of religious clauses.”

V. THE IMPACT OF *LEUS* CASE ON THE PUBLIC’S VIEWPOINT ON MORALITY

It is inevitable that laws and legal systems can be used as a moral compass to personal daily routine. Kenworthy Bilz and Janice Nadler, in their article *Law, Moral Attitude, and Behavioral Change* (2014),¹⁶ suggest that the contents of law can be reliable sources of morality:

To the extent the legal system is perceived as promoting justice, people will be more likely to comply with law in an overarching sense (Robinson and Darley, 1996; Robinson and Darley, 1997; and Nadler 2005) ... In general, when the law imposes obligations and punishment in concordance with general intuitions about justice, then people are likely to view the legal system as a legitimate and reliable source of morality. Individual cases decided consistently with lay intuitions of justice reinforce the notion that law is a source of moral guidance.¹⁷

¹⁵ The Court in this case denoted that religious morality should not be used as basis for correcting an employee in a working place.

¹⁶ Bilz, K. & Nadler, J. (2014). Law, Attitudes, and Behavioral Change. *The Oxford Handbook of Behavioral Economics and the Law*. 242.
<https://www.law.northwestern.edu/faculty/fulltime/nadler/bilz-nadler-lawmoralattitudespageproofs.pdf>

¹⁷ Ibid

Although laws and the legal system can be reliable sources of morality,¹⁸ in the Philippine setting, court decisions or jurisprudence are also part of the Philippine legal system.¹⁹ People will tend to follow and apply the principle of *Leus Case* in their daily routines. Public society will eventually impose the *Leus* principle in its moral knowledge and moral understanding – gradually if not instantly.

It is presumed that once the laws (and the court orders) are publicized, all people will be notified and learn about it. Once more, morality is one of the influential notions in society. If someone challenges an established moral code, reactions will arise. Schools of thought (between the anti and the pro) would be created. *Leus'* case made a revolutionary step in terms of moral standards. The public might wonder why the court said this.

In the Philippines, where the dominant faith belief is Catholicism, it is presumed that most of the Filipino people adhered to Catholic belief and moral system. Regardless of the devoutness and seriousness of the Filipino Catholics, all of them are aware of the Christian moral values (if not all at least some of its values). These values are also deeply connected to Filipino culture and society. For three centuries under Spanish colonization with its political and religious influence, that marked the values within the Filipino hearts and minds. Today, things like abortion, same-sex marriage, euthanasia, homosexuality (LGBT+), contraception, and divorce are somehow strange and not well-accepted in Filipino society. The reason is that one's mentality is influenced by Christian moral values. Now, here comes the proposed principle of the *Leus* case that is opposite and completely different from the former. If this principle were adopted on a public scale, the former values would be replaced by these secular ones. The chance is that there would be an overhauling of Filipino values. It could be worse that the former Christian values would be challenged and tested according to the modern complex issues. After the tests and challenges, if the public finds out that Christian moral values are not really working at all or are ineffective in moral decision-making, the public would disregard the former values and question the authority or reference of the former. Later, hypothetically speaking, if this is not properly addressed, the public would lose trust and confidence in the source of the former values. In the end, instability could occur, and a conflict between the public and religion could happen at that moment. However, this is not to conclude that the principle raised in the *Leus* case is a total disaster or a troublemaker. However, this

¹⁸ Ibid

¹⁹ Article 8 of the Republic Act 386 or the New Civil Code of the Philippines, provide that: "judicial decisions applying or interpreting the law, or the Constitution shall form a part of the legal system of the Philippines."

implies that values would be overhauled and replaced by these secular ones. The problem is, are these secular ones well-founded?

VI. WHY “PUBLIC AND SECULAR”?

Human positive laws or statutes made by the law-making body of the government are the primary references of the civil courts. Depending on the form of government of the state, the nature of its laws varies. Some of the different types of government include a direct democracy, a representative democracy, socialism, communism, a monarchy, an oligarchy, and an autocracy (National Geographic).²⁰ The Republic of the Philippines, as stated in its State Policies of the 1987 Philippine Constitution, is a “democratic and republican state.” Why democracy in the first place? In one of the segments of the Philippine TV documentary series *History with Lourd*,²¹ according to Xiao Chua, Assistant Professorial Lecturer at De La Salle University-Manila,²² Apolinario Mabini wrote the ten commandments in his *El Verdadero Decalogo* or “The True Decalogue” which he chose democracy rather than monarchy.²³ Because he wanted the people to choose their leader whom they knew with a good and kind heart so that the country would flourish. “The True Decalogue” was written as an introduction to the Malolos Constitution. It is a set of rules which serves as a guide for Filipinos on how to be better citizens.²⁴ What is democratic and republican?

Democracy is a form of government in which supreme power is held by the people and exercised either directly or through elected representative. The democratic ideal is rooted in the concepts of Natural Law, natural rights, and human dignity and equality. Democracy is a broader term than republic, which denotes non-monarchical government through elected representatives (Rohmann, 2000; 95).²⁵

The Philippines follows the representative democratic system, where the citizens elect a representative that “represents” its people and groups to the national government. To uphold and maintain the democratic principles

²⁰ Forms of Government. (n.d). National Geographic.

<https://education.nationalgeographic.org/resource/resource-library-forms-government/>

²¹ News5Everywhere (2014 April) *Apolinarion Mabini, may Siphilis? – History With Lourd* [Video]. Youtube. <https://www.youtube.com/watch?v=TM6M3D7CGgA>

²² Michael Charleston “Xiao” Briones Chua (Xiao Chua), a Filipino historian and history professor, explained during the interview with Lourd Ernest Hanopol de Veyra (Lourd de Veyra) why Apolinario Mabini preferred democratic government rather than a monarchical government.

²³ Having a democratic government provides people a “power” and “right” to choose their own state leader.

²⁴ Sanvictores Jr., B. 2014. *Mabini: The Voice of the Philippines*. University of the Philippines-Diliman. <https://upd.edu.ph/mabini-the-voice-of-the-philippines-2/>

²⁵ Rohmann, C. (2000). *World of Ideas*. Ballantine Books.

of the Philippines, the separation of the Church and the state, bill of rights, separation of powers, check-and-balance, and the right of suffrage are included in the provisions of its fundamental law. The authority of the government emanates from the people. That is why the “boss”²⁶ of the government is its people and no other. The notion of divine right or authority is a no-no in the democratic government. It is the people who elect. Thus, the political power is public and secular.

To expound the quality of democracy, the Philippine legal system adhered to the principle of legal positivism. It is a legal theory where laws are devoid of moral aspects. Those laws are based on social facts. Laws do not need any moral substance. If the legislative body makes laws, they do not need to consider the moral impact of the statutes. For as long as it is legal, in the sense that it follows the rule of law, and for as long as it is constitutional, then it is operative, applicable, and valid. Lawfulness in legal positivism is itself upright. In the Philippine setting, the constitution is the basis of all laws, which means that statutory provisions must adhere only to the tenets of the constitution. In the first paragraph of the case of *Louis C. Biraogo v. The Philippine Truth Commission 2010* (2010),²⁷ the Court emphasized the role of the constitution in relation to legislative acts:

The role of the Constitution cannot be overlooked. It is through the constitution that the fundamental powers of government are established, limited, and defined, and by which these powers are distributed among the several departments. The constitution is the basic and paramount to which all other laws must conform and to which all persons, including the highest officials of the land, must defer. Constitutional doctrine must remain steadfast no matter what may be the tides of time. It cannot be simply made to sway and accommodate the call of situations and much more tailor itself to the whims and caprices of government and the people who run it.

If the Supreme Court found a law to be deviant from the Constitution, it could be declared unconstitutional and inoperative. The Court, in the case of *Pedro G. Peralta v. Commission on Elections* (1978),²⁸ says that “an act of the legislature, approved by the executive, is presumed to be within constitutional limitations. The responsibility of upholding the Constitution rests not on the courts alone but on the legislature as well.” Even if the law is well morally and philosophically designed, with all its sophisticated languages, if its content is not aligned with the Constitution, it would be invalid. This implies that the Philippine legal system follows the doctrine of

²⁶ It is the people who choose whoever leads them.

²⁷ *Louis “Barok” C. Biraogo v. The Philippine Truth Commission of 2010*, G.R. No. 192935 (December 7, 2010)

²⁸ *Pedro G. Peralta v. Commission on Elections*, G.R. No. L-47771 (March 11, 1978)

constitutional supremacy. As explained in the case of *Manila Prince Hotel v. Government Service Insurance System* (1997),²⁹ the court said that:

Under the doctrine of constitutional supremacy, if a law or contract violates any norm of the constitution, that law or contract, whether promulgated by the legislative or by the executive branch or entered into by private persons for private purposes, is null and void and without force and effect.

Since in our representative democratic state, the Constitution is the “bible” of the legislative acts, this also follows that the concept of the rule of law is imposed and constantly promoted in the Philippine government and in its people. People of all ranks, ages, religions, cultures, and places of birth are bound to follow this rule. “No one is above the law, even the president”, as even stated by General Antonio Luna in the 2015 film *Heneral Luna*.³⁰ According to Former Chief Justice Claudio Teehankee in his separate concurring opinion to the case of *Lorenzo M. Tañada, et. al. v. Hon. Juan C. Tuvera* (1985), “rule of law connotes a body of norms and laws published and ascertainable of equal application to all similar circumstances and not subject to arbitrary change but only certain set procedures.”³¹ In the *Black’s Law Dictionary* (1987) it is “called a ‘rule,’ because in doubtful or unforeseen cases it is a guide or norm for their decision.”³² This rule also keeps and maintains the functionality of the Philippine justice system, for it is impartial and void of sentimental prejudices. Even outside of the court’s premises, faithful obedience to this rule would prevent infringement of rights, unlawful deprivation of liberty, and extra-judicial killings.

In the context of Philippine government services, to secure an unbiased service to the public, Republic Act 6713, or the *Code of Conduct and Ethical Standards for Public Officials and Employees*, provided one of its norms of conduct, political neutrality.³³ Government service only adheres to the existing laws of the land. It does not follow any political ideologies (communism, socialism, Leninism, Maoism, or Fascism) or any religious systems. Public administration is independent of politics and religious aspects. This means that such administration has its own system according to the provisions of the applicable laws. The constitution, again, is the main reference of the government's services and no other. Should political

²⁹ *Manila Prince Hotel v. Government Service Insurance System*, G.R. No. 122156 (February 3, 1997).

³⁰ A 2015 Filipino epic war film directed by Jerrold Tarog and produced by Atikulo Uno Productions.

³¹ *Lorenzo M. Tañada et. al. v. Hon. Juan C. Tuvera*, G.R. L-63915 (April 24, 1985).

³² Black, H.C. (1987) *Black’s Law Dictionary: Abridged Fifth Edition*. West Pub. Co.

³³ Political Neutrality is one of the eight norms of conduct of public officials and employees provided by Republic Act 6713. Where in its Section 4(d) provides that: Public officials and employees shall provide service to everyone without unfair discrimination and regardless of party affiliation or preference.

ideologies and religious beliefs be incorporated into government services, this could cause political and religious-based attitudes, discrimination against those who dislike the stated ideology or faith, unlawful implementation of programs, limited access to the services, and brainwashing of government employees. This would also result in political and religious indoctrination. Government employees could be blinded by these political or religious doctrines and would always base their judgments on "politically or religiously correct" kind of thinking. If these happen, the integrity of public administration and services would be perverted. No one could ever question the government office. If someone asks for access to information, he/she could be denied on an unreasonable basis. Reason itself would be corrupted. Worst, public service could become an elitist's luxury.

Analyzing these premises tells us that the norms for standards, codes, discipline, lifestyle, and manners must be in accordance with the principles of the applicable laws, which are secular in nature. There is no doubt that the civil courts only pronounce secular-based arguments in all their cases, or the government services are void of any political and religious influences. The state, through its government, upholds the secular way of law-making, governance, and public service. This points out that the public must be served with neutral attitudes and perspectives. Neutral in terms of these ways: principle-that the "rule of law" is the basis for its legal and justice system, service-that the commitment to the public interest is a must and void of external principles, and governance-that integrity must be protected through lawful means. This is also why, in terms of morality, the government only adheres to the public and secular kind of morality so that neutrality must be upheld, and everyone can understand the standards.

VII. INSUFFICIENCY OF "PUBLIC AND SECULAR MORALITY"

Is secular and public morality completing in itself? Can this type of morality answer all disgraceful and immoral act-related judicial issues? Consider this: even if the supposed morality imposed by the laws is secular and public in nature, its aim and objective remain to be effective and purposeful: to maintain order and peace in society. Of course, peace and order are the basic ingredients to keep human society in harmony. There are notable examples of public morality based on the applicable laws of the Philippines. Republic Act 6713³⁴ is one of the leading examples of public moral norms. The law contains the following eight norms of conduct to be

³⁴ Supreme Court E-Library. (2019). *Republic Act 6713, February 20, 1989 (An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time Honored Principle of Public Office being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations thereof and other purposes)*. <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/6474>

followed by all public officials and employees: commitment to public interest, professionalism, justness and sincerity, political neutrality, responsiveness to the public, nationalism and patriotism, commitment to democracy, and simple living.³⁵ Should the public officials and employees obey these norms, the delivery of public services would become more effective, fulfilling, and pleasing to people's ends. Also, the integrity of the public office would be maintained and secured. Although Republic Act 9184, or the *Government Procurement Reform Act* of 2003,³⁶ is a special law for government procurement activities, there are underlying "public morals" behind its legal imperatives. The public morals of this law can be found in its five governing principles: transparency, competitiveness, streamlined process, accountability, and public monitoring. These principles aim for the following good outcomes: fairness in the government procurement, easy access to the information regarding bidding opportunities, openness to the public, effective undertaking, avoiding inappropriate operations in the procurement, and keeping the integrity of the public office. Code of professional ethics for any professions like teachers, doctors, lawyers, engineers, and all professions are also examples of providing public moral standards. Recently, in 2020, a new law was approved, the Republic Act 11476 or the *GMRC and Values Education Act* which enunciates that Good Manners and Right Conduct (GMRC) shall be taught from Grades 1 to 10 and shall be integrated into Grades 11-12 subjects. GMRC and Valued Education are anchored in Personalism and Virtue Ethics – theories that are non-religious in nature (Academe).³⁷ Looking at these examples, the moral norms provided by these laws are objectively good and acceptable. Such norms define which actions must be done in the public office.

Although the Court, in *Leus' case*, defines its supposed applicability within the parameters of the Court or judicial cases, there is a problem if this public and secular morality is applied in determining the norms for all human actions. Morality is a set of norms and principles that govern our actions with respect to each other and which are taken to have a special kind of weight and authority.³⁸ Public refers to the general people in the community, secular(ism) pertains to purely civic matters without religiosity. Secular and public morality is a system of moral rules that is void of religious

³⁵ Section 4, RA 6713

³⁶ Known as the An Act of Providing for the Modernization, Standardization, and Regulation of the Procurement Activities of the Government and for other Purposes. But, on July 20, 2024, the Philippine government approved Republic Act No. 12009 or the *New Government Procurement Act* which is an "Act Revising Republic No. 9184, otherwise known as the 'Government Procurement Reform Act', and for other purposes" which became effective on August 13, 2024. The principles mentioned in the former law remained in RA 12009.

³⁷ Values taught under GMRC are not religious in nature, but purely humanistic philosophy.

³⁸ Strawson, P. F. (1961). Social Morality and Individual Ideal. *Philosophy*, 36(136), 1-17. <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/67890E0759EFC852E24D0CF7CE51E1D5/S003181910005779Xa.pdf/social-morality-and-individual-ideal1.pdf>

influence or system. What is its composition and structure? Actually, none. Civil society could not stand on its own without some references. I will provide the following reasons why public and secular morality is insufficient.

a. Public and secular morality does not have its own moral code.

First and foremost, secularism (where secular and public morality is anchored) is a movement and principle of separating the church and state in terms of affairs, power, influence, and governance. This signifies a flight from the influence of the religious authorities. In the *Religious Morality, Secular Morality and the Search for Moral Relativism in the West* of Gilvana de Jesus do Vale Campos, Alexandre Gomes de Lima, and Stela Marcos de Almeida Neves Barbas (2023),³⁹ pointed the rise of secularization of morality due to the historic events:

Some basic events motivated other views of life in general and, as a consequence, brought a new perspective of morality. Some of them were: religious reform and the emergence of Protestantism, distinguishing religious life from moral life; replacement of monarchist liberalism by republican and socialist alternatives of material, positivist and laicizing bases, with defense of the opposition between science and religion; foundation of the secular state with republican bases, guaranteeing freedom of religion and conscience, among others; emergence of scientific methods and theories, with demystification of some religious explanations; emergence of knowledge and discoveries, based on rationality and experiment.⁴⁰

As depicted, the notable historical events paved the way for the emergence of the so-called secular morality. In the history of the governments, prior to the American and French revolutions, religious authorities, like clerics and bishops in the Western world, imams and caliphs in the Muslim world, and spiritual leaders in some communities, are involved in civic governance. Rules, policies, and laws in these governments are mixed with religious tenets and influences. For instance, in Spain, they have the Spanish Inquisition, a process of trial that is headed by the Spanish clerics sanctioned by the Spanish monarch. Installation of emperors and kings under the Holy Roman Empire are facilitated by the Catholic Pope. The monarch of England is also the head of the Church of England (Anglican Church).

³⁹ Do Vale Campos, G. d. J., Lima, A. G. d., & Barbas, S. M. d. A. N. (2023). Religious Morality, Secular Morality and the Search for Moral Relativism in the West. *Acta Bioethica*, 29(2), 147-163. <https://dx.doi.org/10.4067/S1726-569X2023000200147>

⁴⁰ Ibid.

Later, in the world of popular revolutions, where revolutions against the ruling monarchs and colonizers are happening, the shift of governance from co-existence with religions to total independence is considered. Prominent actors of the revolution proposed charters that contained purely civic and public principles. When the French revolutionists drafted their first republican constitution, for instance, the main tenets of their charter were liberty, equality, and fraternity.⁴¹ These are purely civic in nature, for it is void of religious aspects. Liberty in terms of free thinking and movements, equality of opportunities and treatments, and brotherhood of all people. In short, this implies that all men and women are born equal. Anyone can be installed as a member of the governing body, anyone can raise a voice for change, anyone is free to think whatever system he wants to, anyone can express his thoughts, anyone can believe any kind of faith, and the most important of all, everyone has freedom and rights. Consequently, clerics are ousted from the governing bodies, laws and public policies are applicable to all people regardless of their beliefs, the Church has no power in the government, and ecclesiastical authorities cannot depose any ruling civil leader. With that, religious biases were banished, punishments out of religious factors were eradicated, and the laws became applicable to all. From then on, the tenets of secularism became a main theme in the government. In the Philippines, as stated in our present 1987 Philippine Constitution, the separation of Church and State has become part of our government system.

Analyzing the moral structure of secular and public morality, it is viewed that secularism is not a moral theory nor an ethical norm of conduct. It does not say anything about the quality of the actions. This movement is purely political in nature. How can a political idea or movement be a guide for human actions? That is absurd. That is why I briefly explained the development of moral theories because aside from discussing how it developed, it also presents the nature of a moral theory: a norm of the quality of human actions. Secularism did not provide any norm about the rightness or wrongness of human actions. One cannot find any moral code in secularism. In his separate concurring opinion in the case of *Rene J. Hierro v. Atty. Plaridel C. Nava II* (2020),⁴² Justice Marvic M.V.F Leonen explained that:

“Morality may also be secular, in which case it is independent of any divine moral prescriptions. What is good or right at a given circumstance does not

⁴¹ According to some authors, the French republican motto was originally derived from the “seventeenth century age of enlightenment by philosopher-politicians” (Gilbert, J. 2016. Equality versus Fraternity? Rethinking France and its Minorities. *International Journal of Constitutional Law*. 14 (4), pp. 883-905. <https://doi.org/10.1093/icon/mow059>)

⁴² *Rene J. Hierro v. Atty. Plaridel C. Nava*, A.C. No. 9459, January 7, 2020).

derive its basis from any religious doctrine but from the independent moral sense shared as humans.”⁴³

The connotation of “*independent moral sense shared as human*”⁴⁴ is the moral standards and principles recognized by human reason, which is philosophy. Instead of using so-called secular morality, why cannot the highest tribunal use philosophical-based moral and ethical standards? These are all purely based on human reason – a capability that is possessed by all human beings around the world – not from religious teachings. If the court’s concerns are the articulable nature of the measure, the moral standard’s discernable secular purpose, and justifiability to pass the scrutiny of the religious clause, philosophical-based moral and ethical standards are secular, articulable, and independent of religious influences. Philosophy,⁴⁵ in the first place, is based on speculation using human reason. It studies the truth of the reality, seeks to understand the reality, seeks to provide existential answers, and seeks to provide perennial ideas that can be used for personal and social development. The way it studies reality is by implying logic and analysis, of course. Logic, analysis, and human reason are common to all people, whether literate or not, regardless of their cultural background, religious beliefs, social orientation, political ideologies, and gender preferences; these qualities exist among all human persons. Even atheists can practice philosophy or philosophize on their own because of our rationality. Philosophical-based morality is backed by unique systems and moral codes. Systems are rationally supported with arguments.

Public morals are also not a moral theory, per se. There are no such thing as “independent” public morals that consist of unique measures and moral standards.⁴⁶ From a legal perspective, this is usually mentioned in the constitutional and statutory provisions and in jurisprudences, but the usual meaning behind “public morals” is almost the same as secular morality. Public morals may contain a small addition to the meaning of secular morality, which is the practice, customs, and behavior that are usually accepted by all people in society and are void of religious influence. In other words, public morals also mean the standard of the majority’s perspective on human acts. However, this cannot be considered as a unique independent

⁴³ Secular standards, as Justice Leonen pointed out in this opinion, must be the basis for determining immorality. However, it must be clarified what are these secular standards. If these standards refer to philosophical, moral theories that are void of religious influence, it can certainly be acceptable. But if these standards pertain to any secular references without sufficient reasoning on its own, the determination of immoral acts could end up with different uncertain and unclear grounds.

⁴⁴ *Supra*, note 42

⁴⁵ It is a radical inquiry into the fundamental assumptions of any field of inquiry, including itself (Struhl, P. & Stuhl, K. (1972) *Philosophy Now: An Introductory Reader*. Random House.).

⁴⁶ Unless the terminological understanding of public morals pertains to the collection of purely philosophical, moral theories, it can stand as an independent body of theories and can also defend its moral reasoning against any criticisms.

morality. It may contain the public's viewpoint on the wrongness and goodness of the action, but its criteria are not backed up with rational measures that exactly tell the quality of human acts. Thus, secular and public morality is merely a composition of agreed and accepted human acts by society. These so-called moralities do not have standards or moral codes. Also, as pointed out by Do Vale Campos et al. (2023):⁴⁷

The concept (of secular morality) is also inconclusive as to whether it is an ideology, a process, or a theory, respectively, because it has served ideological functions, because it is not inevitable, and because there are no criteria that can support empirical investigations. Berger disagrees with a "theory of secularization" because the central idea that modernization causes a religious decline in the individual and social context is mistaken, which does not correspond to what is observed in the changes brought about by modern events. Since public and secular morality do not possess any standards and moral code, these proposed norms by the tribunal are prone to changes and uncertainty.

The ancient Greek philosopher Heraclitus claimed that everything is in constant flux.⁴⁸ This pertains to the ever-changing reality that everything is prone to change, and nothing is stable. The implication of an ever-changing reality is that nothing stays the same. One cannot be *certain* if that being could *still* be there. Another ancient Greek philosopher, Parmenides, suggested otherwise. Everything is not subject to change. There is one thing that is unchanging: the being.⁴⁹ Later, Plato converged these two opposing theories into one. In one of his *Dialogues*,⁵⁰ he alleged that we are living in a dual reality at the same time, or Metaphysical Dualism. The world we live in is the "material world." In this world, everything is uncertain, unstable, and not to be considered as the "reality."⁵¹ Truth and knowledge cannot be found here. Everything inside here is merely physical and material (this is a Heraclitan version of reality). Outside of this material world is the "world of forms." In this world, nothing changes. This is the "reality" itself. It exists on its own, without the influences of any beings. The world of forms is the realm of truth, stability, immutability, and absolute certainty (this is a Parmenidean version of reality).⁵² This is where the reality of the physical

⁴⁷ Do Vale Campos, G. d. J., Lima, A. G. d., & Barbas, S. M. d. A. N. (2023). Religious Morality, Secular Morality and the Search for Moral Relativism in the West. *Acta Bioethica*, 29(2), 147-163. <https://dx.doi.org/10.4067/S1726-569X2023000200147>

⁴⁸ One of the Greek Pre-Socratic philosophers.

⁴⁹ Parmenidean being is unchanging and immutable.

⁵⁰ Platonic writings around fourth century BC (Kraut, R. (2022). Plato. *The Stanford Encyclopedia of Philosophy*. <https://plato.stanford.edu/cgi-bin/encyclopedia/archinfo.cgi?entry=plato>)

⁵¹ It's a Platonic view on reality, where, this material world is just a shadow of the *World of Forms*. We cannot find certainty and absolute ideas in this reality. having said that, nothing in this world can be reliable to gain knowledge.

⁵² This is where we can find certainty and the truth.

world depends. The material world is just a copy of the world of forms. To speak, everything we see here is just a shadow of the forms. Forms, as described by Plato, are the true essences or whatness of all beings. Forms provide identity, character, nature, and image of the material things. If forms are the “true essences” of the physical world, this also means that it has its own structure, system, and self-subsistence.⁵³ The world of forms is also known as the world of ideas or the abstract world. This is where all kinds of ideas reside. Ideas of justice, equality, love, truth, and harmony can be found here. Ideas never change in this realm.⁵⁴ They stay the same regardless of how the people understand them. The concept of goodness and wrongness cannot be altered nor revised, regardless of the situation in the physical world.

Relating the above Platonic viewpoint of reality,⁵⁵ secular and public morals are like beings of Heraclitus or shadow of forms. That is because these kinds of morals did not have a unique structure that could stand on its own. They are just copies and resemblances of truly structured moral theories. The design of secular and public morality is not based on an immutable framework of measures where you can invoke these standards to assess the quality of human action in a clear and rational manner. Instead, public and secular morality is based on mere perceptions, understanding, and acceptability of the majority or common people. These perceptions of the common people are nothing but opinions that reside in the instantaneous flow of reaction. If the public negatively reacts to an action, the action is now considered as bad. If the public reaction is positive, then the act is good. To say, public and secular morality is conceived out of the reactions of the common people. It implies that after due observation of the people’s (social) reactions and collecting all these reactions into a scope of public responses, the notion of public morality eventually came to reality. The unfortunate case here is that feedback, responses, and reactions vary across the world. One cannot find the same reactions in the same situations in different places. Cultural, social, political, and religious upbringing also affect the social reactions. Unlike in Kantian ethics,⁵⁶ for example, one can easily determine the quality of the human act by referring to its categorical imperatives, regardless of where one belongs or is situated. The ever-changing environment and social evolution also play a role in the diversity of social and public reactions. Replacing the social norms with the new ones caused the diversity of the social response and perspective. Replacement of norms happens when a new ideology and practices are being introduced in society. Once society accepts the newly introduced practices and ideology, people

⁵³ *World of Forms* subsists on its own, where the existence of the material world depends on the former.

⁵⁴ Everything in this realm is immutable or not subject to change nor corruption.

⁵⁵ As discussed in *The Republic* of Plato

⁵⁶ Deontological Ethics

will incorporate these notions into the “scope of social responses.”⁵⁷ Gradually and unconsciously, people do and follow the strange practices into their individual routines. Observers of this act will be curious about the said practices and will try to imitate them. If they find it advantageous and not harmful, this will become a part of the social norm. Which will eventually become part of the public and secular morality. Who makes these new practices? They might be the same people within the society who wanted to challenge the existing social norms. It might also be the outcast who wants to be accepted in society. Anyone can introduce new practices in society. If the scope of social responses, which is derived from the socially accepted practices that are incorporated into the social norm, is the core of public and secular morality, this will imply that such kind of morality is not stable and uncertain. This is due to the absence of its own definitive moral structure. New social practices can change the coverage of the public and secular morality. What is right today might be wrong tomorrow, and vice-versa.

Moreover, one cannot find a clear definition of what is a good or bad action through the lens of public and secular morality. Relating this to the Platonic metaphysical dualism,⁵⁸ public and secular morality belongs only within the realm of the physical world since, in its structure, its nucleus is mutable. We are talking about the quality of the actions. Measures and standards of morality are expected to be stable and unchanging. The true and authentic moral code transcends human limitations. This rational moral standard⁵⁹ does not care if society rejects it. Even if the social response is not in favor of the rational rules of morality, morality stands unaltered. The knowledge of morality is what also puts society in order and harmony. That is because people think that doing good is the right thing to do and ought to be done. The rightness of the action is determined by rationally structured moral standards, not by something made of whimsical social responses. Yes, we are living in the physical world, but we are also rational beings. We are aware of what is right and what is wrong, what is the right thing to be done, and things to be avoided. Should secular and public morality become our ultimate guideline for determining the prevailing norms of conduct, we would be enslaved by the uncertainty and instability of the material world. We would become less rational and be blinded by the shadows lurking in this physical reality. One cannot attain the ultimate good or even the common good of society if our conduct is driven by an irrational moral code, which, in this case, is secular and public morality. Thus, let us not be blinded

⁵⁷ An author’s term on the collection of social responses on each situation. Morality in this sense is reduced and derived from social response.

⁵⁸ The ever-changing social responses reflects to material world of Plato’s metaphysics. It cannot be certain because the acceptability of the act depends to the extent of society’s acceptance and tolerance.

⁵⁹ This moral code is truly independent of social influences, thus not subject to change.

by the shadows of rational morality. One should not be complacent or be confident with the mere so-called secular and public morality.

b. Public and secular morality is self-contradicting.

Morality is, again, a set of rules that define the quality of human actions. If the public and secular morality do not possess a moral code and self-subsisting structure, it cannot be considered a morality itself.⁶⁰ By construing the meaning of morality, we can see that it consists of the following significant elements: a set of rules, standards, rational measures, and determination of the quality of human actions.⁶¹ As claimed in the first argument of this article, public and secular morality do not possess any moral code or standard, which is one of the basic elements of morality. As supported in the second argument, since public morality is void of rules and standards because it is based on whimsical and changing social responses, this kind of so-called morality is not a morality itself. How can we rely on something which is not something? The absence of rationality in public and secular morality would result in an absurd determination of norms of conduct. If the so-called secular and public morality is self-contradicting, this means that it is non-existent. This should not exist. But how is the highest tribunal able to recognize something like this? That is because this is not public and secular morality, per se, but “deontological morality.”⁶²

c. The so-called public and secular morality, as proposed by the highest tribunal in the *Leus* case, is not what it is, but a combination of philosophical ethical theories.

Reviewing the statements of the Court from the *Leus* case, it says that:

“...government action, including its proscription of immorality expressed in criminal law like concubinage, must have a secular purpose. That is, the government proscribes this conduct because it is **“detrimental (or dangerous) to those conditions upon which depend the existence and progress of human society”** and not just because the conduct is proscribed by the beliefs of the religion or the other.”⁶³

How can we say that something is detrimental or dangerous to the progress of human society? By establishing criteria for determining the quality of the human act and by assessing the act according to the moral criteria. Which moral criteria should we use? Criteria are proposed by

⁶⁰ Moral structures do not change, it stays as it is, as ordered by a rational rule.

⁶¹ Morality is primarily philosophically structured not by mere sentiments nor instincts.

⁶² Examining court’s ruling on moral related issues are actually deontological in nature, because it depends on the *rules* legislated by the authority.

⁶³ *Cheryl Santos Leus*, G.R. No. 187226, January 28, 2015.

several philosophical and ethical theories. If the courts (or the government) use these ethical theories as criteria for determining the prevailing norms of conduct, could this be a violation of the religious freedom clause? The answer is big no. Philosophical ethical theories are not essentially religious in nature. These are purely based on the analysis of human reason. All human beings can comprehend and follow these theories, because these are all rational. Of course, if the courts rely on Christian ethics, which is an ethical theory infused with Christian moral theology, that is an obvious deviation from the religious clause. Courts would only use and employ a purely rational ethical standard in cases concerning “disgraceful and immoral conduct.” Analyze the theory if it is purely philosophical or not. Applicable laws are primarily the basic references for all judicial cases, but in case of immoralities, the court must consider the application of philosophical theories.

Also, a simple clarification of the Court’s perspective of morality. Morality should not be understood as something derived from religious or theological notions. The knowledge of rightness and wrongness of the action is not totally dependent on the commandments of God. If one studies Moral Theology in a Catholic seminary, one will hear that one of the bases of morality is the teachings embedded in the sacred scriptures. From a philosophical perspective, moral knowledge is rational and human. Our reason can be known because our reason can assess the implications of our actions. We are conscious of our acts. Even an atheist knows what is right and wrong.

Kantian and utilitarian ethics are not religious based morality.⁶⁴ They are made by human persons: Immanuel Kant for Kantian Ethics, Jeremy Bentham, and John Stuart Mill for Utilitarianism. These ethics, again, are backed with purely rational human principles not divine nor theological. Consider utilitarian ethics: In fact, “utilitarianism has often been regarded as a political philosophy that entails democratic government as a political institution.”⁶⁵ To begin with, the great utilitarians were democratically minded. They fought for civil liberties and women’s suffrage, for the conduct of government by law, and so on. This served to identify their philosophical doctrines with democratic clauses. Secondly, in regarding everyone as of equal importance in calculating the amount of pleasure and pain evoked, their views came to be identified with democratic tenets that each counts equally before the law. Finally, **the rightness and wrongness of**

⁶⁴ These are purely philosophical in nature. The proponents did not use any religious texts or teachings to formulate the same. They only use human reason and logic.

⁶⁵ Rohmann, C. (2000). World of Ideas. Ballantine Books.

an act are to be determined by how it affects the majority⁶⁶ – and this seemed to point to rule by the majority, another provision of democracy.⁶⁷

The determination of the rightness and wrongness of an act is not derived from a theistic imperative but from the consideration of the action's implication to the majority. Analyzing the impact of the act is done in an objective manner. It is not mere feelings nor social reactions that are the basis here, but the benefits that produce a large amount of good. Speaking of the prevention of something detrimental to human progress, utilitarianism is one of the relevant ethical models for achieving this. Public and secular morality cannot define what is detrimental or not. It does not have any definite moral structure nor codes of its own.

VIII. THE IMPORTANCE OF PHILOSOPHICAL MORALITY IN THE LEGAL WORLD

Public and secular morality is insufficient to use as the standards in determining the prevailing norms of conduct and in handling cases concerning immoral acts. This does not imply that the civil courts should reject their own legal logic and reasoning and instead rely solely on philosophy.⁶⁸ The court's argument in the *Leus* case concerning public and secular morality is within the context of the case. It also points out that courts and the government shall use the said morality in dealing with the same context. However, the said morality is problematic because of its essential insufficiency. This means that this kind lacks a substance that can certainly provide an answer for every moral issue. If society also applied this proposed standard, our values and moral knowledge would be endangered, shattered, and eventually banished.

Our civil courts should change their perspective towards morality. Religion is not the sole teacher of moral knowledge. It does not mean that morals are always associated with religion and its beliefs. Our human reason can recognize what is right and wrong. In Natural law ethics, for instance, if the action is good because the act is in accordance with the order of reason and of nature, then it is bad if it violates the said order. It is true that religion has a significant influence on the establishment of morals. The state, in fact, recognizes the beneficent influence of religion in the enrichment of the nation's life.⁶⁹ It may have a good influence in shaping moral ideals, but the capacity of human reason can still provide practical, independent, and real

⁶⁶ Concept of utilitarian ethics as applied in political perspective.

⁶⁷ Popkin, R. & Stroll, A. (1993) *Philosophy Made Simple: A Complete Guide to the World's Most Important Thinkers and Theories*. (2nd ed.). Routledge.

⁶⁸ Courts have judicial independence. It can decide according to its own judicial and legal reasoning.

⁶⁹ Cruz, I. (2014) *Constitutional Law*. Central Book Supply, Inc.

moral standards. That is why, through the determined and concerted efforts of the philosophers who philosophized the quality of human acts and their effects, several philosophical theories were speculated and created. Some of these theories are embedded in the social norms and even in the legal and justice systems. Kantian ethics and utilitarian ethics, for instance, are applicable in the secular and public realms. As it was said a while ago, even utilitarianism is closely relevant to democratic ideals. They are not totally alien nor contradicting the religious clause of the constitution. Anyone can follow and accept these theories, even atheists and agnostics.

There are cases decided by the Supreme Court that consider the application of democratic principles.⁷⁰ If the courts can apply the principles of democracy in cases where its values (such as protection of life, rights, freedom, property, and liberty) are threatened, though imbedded in the constitution which is a sort of a political system, why not consider philosophical ethical theories in cases involving “disgraceful and immoral acts”? Philosophy is basically related to law, in terms of reasoning, critical analysis, theories, wisdom, logic, and concepts applicable for the legal system. Philosophy is not a religious concept but purely based on reason. It is not merely a matter of stating personal opinions of world views, it is a matter of systematically asking and answering questions about the fundamental nature of the world and persons and then attempting to adequately justify those answers in accordance with the norms of rationality.⁷¹ Norms of rationality are crucial in case investigation, argumentation, and debate, as well as in judicial cases (jurisprudence). Philosophical ethical theories are the appropriate standards to be considered in determining the prevailing norms and in handling “disgraceful and immoral acts” cases.

Civil courts, particularly in the Philippines, should at least consider applying philosophical ethical theories in their judicial cases. Indeed, the rule of law is the fundamental legal doctrine in the legal justice system. Only the principles consisting of settled rule of action, procedure, or legal determination⁷² can be used in deciding cases. According to Chapter Two of *Fundamentals of Decision Writing for Judges* by the Philippine Judicial Academy (PHILJA):⁷³

⁷⁰ *Secretary of Justice v. Hon. Ralph C. Lantion*, G.R. 139465 dated January 18, 2000; *In the Matter of Petition for Declaratory Relief Re Constitutionality of Republic Act 4880 v. Commission on Elections*, G.R. L-27833 dated April 18, 1969; *Greco Antonius Beda B. Belgica et. al. v. Senate of the Philippines et. al.* G.R. 208566 dated November 19, 2013; and *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. 78742 dated July 14, 1989.

⁷¹ Southern Illinois University Edwardsville. (2003) *Phil 111: Introduction to Philosophy*. <https://www.siu.edu/~wlarkin/teaching/PHIL111/nature.html>

⁷² Black, H.C. (1987) *Black's Law Dictionary: Abridged Fifth Edition*. West Pub. Co.

⁷³ Supreme Court E-Library. (2019). *Fundamentals of Decision Writing for Judges*. <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/46/63230>.

It goes without saying that every decision, order, or opinion of the Court should be, at the very least, in conformity with what the Constitution and the Rules of Court require as minimum standards for the parties and litigants to recognize as valid and binding in the adjudication of their rights and obligations.

Norms that are consonant with the fundamental law and the applicable laws are the only bases for deciding cases and their opinions. But if you look closely at the principle behind the “rule of law” – a principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated (Department of Justice) – it resembles deontological ethical theory that “judges the morality of actions based on their adherence to a set of action-principles or rules”.⁷⁴ That is because the rule of law commands that actions, duties, and responsibilities must be pursuant to laws, which is essentially the same as the basic principle of deontology. In fact, the foundation of the rule of law was formulated by the philosophers throughout its history.⁷⁵ Conceptual formulation of the said rule is designed with critical analysis out of a philosophical viewpoint on justice, society, and the common good. Having said that, I recommend that legal analysts, specialists, practitioners, and philosophers consider the incorporation of philosophical theories in the legal and judicial system by contemplating the contributions of philosophy to the law. The means of contemplation is not just describing or analyzing the legal philosophies about their influences and contributing factors but also applying their principles in cases, rulings, and decisions. Suggestively, philosophical reasoning be considered in the legal reasoning of the courts and be likewise included in the making of laws. It may sound ambitious and unconventional in the legal world, but this could help in establishing clear norms of morality, case analysis, logic, and

⁷⁴ Crisp, R. (1995). Deontological ethics. In T. Honderich (Ed.), *The Oxford companion to philosophy*. Oxford: Oxford University Press.

⁷⁵ Brief history of the rule of law according to *Stanford Encyclopedia of Philosophy* (2016):

“The Rule of Law has been an important ideal in our political tradition for millennia, and it is impossible to grasp and evaluate modern understandings of it without fathoming that historical heritage. The heritage of argument about the Rule of Law begins with Aristotle (c. 350 BC); it proceeds with medieval theorists like Sir John Fortescue (1471), who sought to distinguish lawful from despotic forms of kingship; it goes on through the early modern period in the work of John Locke (1689), James Harrington (1656), and (oddly enough) Niccolò Machiavelli (1517); in the European Enlightenment in the writings of Montesquieu (1748) and others; in American constitutionalism in *The Federalist Papers* and (and even more forcefully) in the writings of the Federalists’ opponents; and, in the modern era, in Britain in the writings of A. V. Dicey (1885), F.A. Hayek (1944, 1960, and 1973), Michael Oakeshott (1983), Joseph Raz (1977), and John Finnis (1980), and in America in the writings of Lon Fuller (1964), Ronald Dworkin (1985), and John Rawls (1971). Because the heritage of this idea is so much a part of its modern application, a few highlights need to be mentioned.” (Waldron, J. (2023) Zalta, E.N. & Nodelman, U. (Eds.). "The Rule of Law". *The Stanford Encyclopedia of Philosophy*. <https://plato.stanford.edu/archives/fall2023/entries/rule-of-law>)

reasoning, providing an in-depth conceptual framework to the legal doctrines and a meaningful understanding of justice, equality, and equity.

IX. PHILOSOPHIZING THE SECULAR AND PUBLIC MORALITY: SECULAR MORAL REASONING

There were attempts to answer moral issues in secularistic ways. We can see that across the branches of the government. Having said that, here is another example of applying secularism in the state affairs. Floor debates in the legislative department on the proposal for a divorce bill, for instance, we can hear various arguments on both sides. The pro-divorce arguments based on statistics, science, social studies, and laws; on the anti-divorce side, they used religious-backed arguments, ethics, morality, and also laws. But in the end, the matter must be addressed in the middle where they can meet. Resolution between sides is usually handled with the use of legal bases. The main reference is, of course, the Constitution; the others are laws and jurisprudence. Religious-based arguments in the floor debates are not textually incorporated in the making of a bill. Only the embedded constitutional principles be considered in the legislative process. Considering the aforesaid arguments on the insufficiency of public and secular morality, this kind is not a theory nor a structure. It does not contain criteria to determine and conclude which act is right or wrong. Likewise, it cannot be considered an independent field of study, philosophy, or moral standard. Instead, public and secular morality is just a by-product of the secularist movement – a movement that aims for the separation of society from religious influence. Secularists imposed their movements and goals on the world of morality to amplify its dominance beyond the socio-political realm into morals. They replaced existing moral structures (that are not subject to external influence) with mere anti-religious sentiments void of rational structure. Emmanuel S. De Dios (2008) mentioned in his *Secular Morality and the University*, that the Enlightenment thinkers were probably induced to conceive of the urgency of secular morality and the separation of the state and religion, owing to the long and painful history of religious wars in Europe, and the subsequent need for people of different creeds to live together in the society.⁷⁶

Philosophical morality, on the other hand, contains distinct criteria and rational standards for the determination of the morality of human acts. Philosophical morality is not subject to sudden shifts. This morality can stand on its own when it is questioned, challenged, or criticized. It can produce and provide rational arguments (even supported with empirical evidence) against criticisms. Philosophical morality contains reason and

⁷⁶ De Dios, E. S. (2008). *Secular Morality and the University* (UPSE Discussion Paper No. 2008,05) EconStor. <https://www.econstor.eu/bitstream/10419/46671/1/574681337.pdf>

impartiality: first, moral judgments must be backed by good reasons, and second, morality requires the impartial consideration of each individual's interests.⁷⁷ Secular morality cannot defend its own "idea". Its answer would go on the vicious circle with unending repetitious arguments. Worst, it cannot provide a conclusive solution in any moral situation. We can find answers in deontological ethics, utilitarianism, and virtue ethics when it comes to moral issues (even to social problems) like issues on same-sex marriage, euthanasia, abortion, sterilization, extra-judicial killings, cloning, and even the moral implications of Artificial Intelligence (AI) in human workforce. Public and secular morality has no clear answer to these problems because, again, it does not have any rational standard on its own.

X. CONCLUSION

Nevertheless, clarifying the term and nature of secular and public morality as a kind of moral theory devoid of religious aspects and that is purely based on human reason could be acceptable – instead of being a mere by-product of the secularist movement. Identifying the same as a category or group of moral theories that are not derived from divine revelations but from humanism and freethinking reasoning could be considered as an independent rational structure. Civil courts in a democratic state rely solely on the duly established human positive laws in deciding cases. Interpretation and construction of laws use logic and human reason to get into the intent of the law. Statutory and constitutional construction never rely beyond the corners of human reason. When it comes to the determination of judgment related to committed immoral acts, the courts use their own reason (as reflected in human reason) to decide. Established laws serve as the *matter* of the legal world and human reason or logic as its *form*. This is an example of secular reasoning.

One can stipulate secular moral reasoning. It is simply a term for moral reasoning without religion-based logic or arguments. In that case, if the highest tribunal in the *Leus* case wanted to promote secular morality with secular moral reasoning, backed and structured with purely philosophical moral theories, we can adhere to that. Normative ethics that are formulated through pure human reason could fall into secular morality (since these theories are purely man-made). The civil courts could use secular morality in deciding cases involving immoral and disgraceful acts, without compromising or disturbing the religious freedom of the parties involved. In deciding such cases, deontological ethics, virtue ethics, and utilitarian ethics can be applied as supplemental to its rulings. These are secular in nature. Provided that the criterion behind this kind is rational enough to

⁷⁷ Rachels, J. (2012). *The Elements of Moral Philosophy*. (7th ed.) McGraw-Hill.

justify its judgment, secular morality can be applied beyond the legal world. As established above, morality is not always religious nor associated with religion. People who see that way, can apply secular morality freely in their lives without compromising their personal beliefs.

This article intends to clarify the meaning and distinction between public and secular morality and philosophical morality to avoid confusion in understanding the true essence of morality. The afore-stated arguments about the insufficiency of public and secular morality pertain to the notion of it as an offshoot of the *movement* without independent rational and even ideological structure. Secular morality is sufficient if its nature contains distinct philosophical, moral reasoning (void of religion) as different from mere anti-religious sentiment.

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