

# COMMENT ON STUDENT REPRESENTATION IN THE GOVERNING BOARD OF THE UNIVERSITY

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## INTRODUCTION

In society, people have their respective roles to play. Doctors cure the sick, engineers and architects build various structures, and scientists seek and test new discoveries. Whatever the context within which people operate, the roles that are assigned to them by society are unmistakably clear. In an educational setting, it is the common notion that teachers are there to teach, students are there to learn, and administrators are there to run and operate the school. The tasks assigned to these actors in the educational stage are believed to be well-delineated that any encroachment made by one actor on another will instantly cause an uproar.

And an uproar was indeed caused when House Bill No. 9935<sup>1</sup> was introduced. Otherwise known as the Magna Carta for Students Law, the bill which defines the rights of the students in relation to the educational community was vigorously opposed by the Coordinating Council of Private Educational Associations (COCOPEA). The opposition which was supported by the Catholic Educational Association of the Philippines (CEAP), Philippine Institute of Technical Institutions (PITI), Association of Christian Schools and Colleges (ACSC) and Philippine Association of Private Schools, Colleges and Universities (PAPSCU) culminated with a nationwide

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<sup>1</sup> H. No. 9935, 10th Congress, 3rd Session (1997). Principally introduced by House Speaker Jose De Venecia on September 3, 1997.

day-long suspension of classes among various private institutions of higher learning.<sup>2</sup>

Under the bill, students are given the opportunity to be represented in the highest decision-making authority of the University — the board of directors or trustees of the institution.<sup>3</sup> This provision, among others, drew sharp criticism from private school administrators, referring to it as an abdication of the school's right to administer the institution and as beyond the capabilities of students for the reason that they are in school to study and not to deliberate school policies.<sup>4</sup> More specifically, it is argued that a private school is private property and its owners have the right to decide who should administer the property. To impose upon the school owners the inclusion in their school board of a member, such as a student who is not of their choosing, constitutes a violation of proprietary rights.<sup>5</sup>

The nationwide suspension by private colleges and universities brought other legislators to the bargaining table to discuss possible compromises on the bill. Suggestions ranging from mandatory consultations to the absence of voting power on the part of the student representative were raised. Distinction was also raised between public

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<sup>2</sup> Manila Standard, September 29, 1997 at 1 and 4, col 3.

<sup>3</sup> H. No. 9935, Chap. IV, sec. 13. **Participation in Policy-Making Process.** —

(a) There shall be a student representative in the Governing Board of the school. The chairman / president of the student council or any designated representative chosen by the heads of various local college student councils shall be the student representative and shall have the same rights as those of a regular member; provided, that his / her privileges shall be limited to reimbursements for actual expenses incurred in attending meetings. The same rights shall be granted to the secondary level.

The students shall also be represented in other policy-making bodies which directly affect their welfare, especially in curriculum review, student discipline, and academic standards. The representatives shall be designated by the student council.

(b) Representatives of national student organizations shall actively participate and possess voting powers in the formulation of national policies by governmental agencies on matters affecting students' rights and welfare including tuition.

<sup>4</sup> Manila Standard, September 30, 1997, p. 1 and 4, col. 1.

<sup>5</sup> Manila Standard, September 29, 1997, p. 23, col. 1.

and private educational institutions with some leaders claiming that student representation in public schools is permissible while that in private schools cannot be possible.<sup>6</sup> From the discussions, it was evident that the bill's original proposal to have a student representative in the governing board exercising the powers of a board member would be difficult to materialize.

While student participation in the decision-making process has long been emphasized during the height of student activism in the 60s and 70s, participation of students in the governing boards of the university remains a very controversial issue to this day.<sup>7</sup> Today, only students in state colleges and universities are given the right to sit in the governing boards of their respective universities.<sup>8</sup> Privately-owned institutions of higher learning appeared content in just having consultations and dialogues with their students in formulating school policies and programs.

Should students be given an opportunity to directly participate in the formulation of policies of the school or should they instead continue to act out their traditional role in the educational institution — which is to study and learn? This comment hopes to bring to light the controversial issue of student representation in the governing board of the university. It centers on the proposition that students, being part of the institution which enjoys academic freedom, have as much right to actively participate in the decision-making process of a university and that the State has the authority to ensure the advancement of this right.

#### EDUCATIONAL POLICY OF THE STATE

Education plays an important function in Philippine society. To most Filipinos, it is the avenue through which movement from one social class to another is effected. Education liberates the mind and

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<sup>6</sup> See note 4, *supra*.

<sup>7</sup> *A Belated Legislation*, P. Bn Daroy, Manila Standard, October 1, 1997 at 15, col. 3.

<sup>8</sup> Rep. Act No. 8292 (1997), sec. 3, par. (7).

allows the individual to make meaningful progress. Even the state itself recognizes the valuable contribution of education to our national development.

The reasons for state interest in education can be summarized in three points:

[First] Through education, the individual is socialized. He is molded according to the habits, customs, and mores of his community. This is required for development of his moral character and personal discipline.

Second, through education, the individual is nationalized. He is made aware that he belongs to a Nation. He comes to know what his Nation does for him and what he must do in return for his country.

Third, through education, the individual becomes a useful member of society. He develops talents or acquires skills which enable him to make an important contribution to the economic life of the Nation. Through such talents or skills, he contributes to economic development and this also enables him to earn his livelihood and thus achieve a decent standard of living for himself and his family.<sup>9</sup>

Recognition of the invaluable role of education in national development is reflected in the fact that an article in the Constitution was partly devoted to it. A perusal of the charter shows that the fundamental educational policy of the state is succinctly expressed as follows:

The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.<sup>10</sup>

In pursuit of the aforementioned policy of quality and accessible education, the charter provides for several obligations on the part of the state. One such obligation is to "establish, maintain,

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<sup>9</sup> II P.V. Fernandez, C.V. Sison, I.R. Cortes, Ed., PHILIPPINE POLITICAL LAW: CASES AND MATERIALS 1650 (Experimental Edition, 1975).

<sup>10</sup> CONST., art. XIV, sec. 1.

and support a complete, adequate and integrated system of education, relevant to the needs of the people and society."<sup>11</sup> Interestingly enough, this constitutional mandate was earlier reflected in Batas Pambansa Blg. 232 which stated that:

It is the policy of the State to establish and maintain a complete, adequate and integrated system of education relevant to the goals of national development. Toward this end, the government shall ensure, within the context of a free and democratic system, maximum contribution of the educational system to the attainment of the following national development goals:

- 1) To achieve and maintain an accelerating rate of economic developmental and social progress;
- 2) To assure the maximum participation of all the people in the attainment and enjoyment of the benefits of such growth; and
- 3) To achieve and strengthen national unity and consciousness and preserve, develop and promote desirable cultural, moral and spiritual values in a changing world.<sup>12</sup>

This educational policy is presently reflected in the law creating the Commission on Higher Education wherein it was declared to be the basic policy of the state to protect, foster and promote the right of all citizens to affordable, quality education at all levels and to take appropriate steps to ensure that education shall be accessible to all.<sup>13</sup>

The Constitution further mandates the state to take into account regional and sectoral needs and conditions, and to encourage local planning in the development of educational policies and programs.<sup>14</sup> Commissioner Jose Luis Martin C. Gascon of the 1986

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<sup>11</sup> CONST., art. XIV, sec. 2, par. (1).

<sup>12</sup> Batas Pambansa Blg. 232 (1982), sec. 3. Entitled "An Act Providing for the Establishment and Maintenance of an Integrated System of Education."

<sup>13</sup> Rep. Act No. 7722 (1994), sec. 2. Entitled "An Act Creating the Commission on Higher Education, appropriating funds therefor and for other purposes."

<sup>14</sup> CONST., art. XIV, sec. 5, par. (1).

Constitutional Commission explained the inclusion of this provision as follows:

First in formulating educational policies, the State must take into account regional and sectoral needs and conditions. This means that we should have a more rationalized and systematic program of developing the system of education in the country. At this point in time, there is over concentration of schools in the urban areas, particularly Metro Manila. Second, state colleges and universities are sometimes created because of political influence, and not really to respond to the needs of a particular region. So the intent is that, as the State goes into further emphasis into the development of education, it shall develop schools in those particular regions responsive to the sectoral needs of the region.<sup>15</sup>

In other words, the formulation of educational policies and programs aimed to achieve quality and accessible education must necessarily include the participation of all sectors of society to prevent the imposition of unresponsive and arbitrary policies.

In addition, the State is also given authority to exercise reasonable supervision and regulation of all educational institutions, recognizing the complementary roles of public and private institutions in the educational system.<sup>16</sup> Being invaluable ingredients to national development, schools must be properly regulated towards the attainment of our development goals. As explained by Justice Felix Makasiar in the case of *Garcia v. Faculty Admissions*:

The educational institutions perform a more vital function than the ordinary public utilities. The institution of learning feeds and nurtures the human mind and spirit to insure a robust, healthy and educated citizenry on whom national survival and national greatness depend. The ordinary public utilities merely serve the material comforts and convenience of the people, who can certainly go on living without them. But the people cannot wallow in darkness and ignorance

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<sup>15</sup> J. BERNAS, SJ, THE INTENT OF THE 1986 CONSTITUTION WRITERS 1093 (1st ed., 1995) [hereinafter referred to as BERNAS, THE INTENT].

<sup>16</sup> CONST., art. XIV, sec. 4, par. (1).

without hastening their extermination from the face of the earth.<sup>17</sup>

However, state supervision and regulation does not permit undue state interference of an educational institution's right to seek and propagate the truth. Such authority must be exercised within the reasonable bounds of academic freedom which the Constitution grants to institutions of higher learning.<sup>18</sup>

Thus, it comes to no surprise to discover that under Republic Act No. 7722 the State is mandated to ensure and protect academic freedom and shall promote its exercise and observance for the continuing intellectual growth, the advancement of learning and research, the development of responsible and effective leadership, the education of high-level and middle-level professionals, and the enrichment of our historical and cultural heritage.<sup>19</sup>

### ACADEMIC FREEDOM

#### *Brief History*

The constitutional right to academic freedom has long been enjoyed by institutions of higher learning in the country. As early as the 1935 Constitution, academic freedom had already been granted to universities established by the State.<sup>20</sup> This provision was later modified in both the 1973 and 1987 Constitutions by extending the grant to private institutions of higher learning.

The origins of academic freedom can be traced to the nineteenth century German concepts of *Lehrfreiheit*, *Lernfreiheit* and *Freiheit der Wissenschaft*. *Lehrfreiheit* is commonly known as teaching freedom. In Germany, it referred to the statutory right of full and

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<sup>17</sup> *Garcia v. The Faculty Admission Committee, Loyola School of Theology*, G.R. No. 40779, November 28, 1975, 68 SCRA 297 (1975), (Makasiar, J., dissenting) [hereinafter referred to as *Dissenting Opinion of Justice Makasiar in Garcia*].

<sup>18</sup> CONST., art. XIV, sec. 5, par. (2).

<sup>19</sup> Rep. Act No. 7722 (1994), sec. 2.

<sup>20</sup> See CONST. (1935), art. XIV, sec. 5.

associate professors, who were salaried civil servants, to discharge their professional duties outside the chain of command that encompassed other government officials. *Lernfreiheit* or learning freedom is the right granted to university students which amounted to a disclaimer by the university of any control over the student's course of study save that which they needed to prepare them for state professional examinations or to qualify them for an academic teaching license. On the other hand, *Freiheit der Wissenschaft* is the university's right under the direction of its senior professors organized into separate faculties and a common Senate, to control the internal affairs.<sup>21</sup>

The German formulation of academic freedom was adopted by the United States with some modifications. Rev. Joaquin Bernas, SJ explained that because of American adherence to the concept of *in loco parentis*, the American version did not accept the concept of *Lernfreiheit*. Neither did it accept the idea of the German professor's freedom to proselytize and instead, professional neutrality became an American byword. And, while in German society the freedom encompassed by the term *Lehrfreiheit* was a special concession enjoyed only within the academic community, in the American community, with its tradition of freedom of speech, most of the rights encompassed by *Lehrfreiheit* were guaranteed by the American constitution for all.<sup>22</sup>

According to Professor Fuchs, the concept of academic freedom dominant in colleges and universities in the United States rests mainly on three foundations: 1) the philosophy of intellectual freedom, which originated in Greece, arose again in Europe, especially under the impact of the Renaissance, and came to maturity in the Age of Reason; 2) the idea of autonomy for communities of scholars, which arose in the universities of Europe, and 3) the freedoms guaranteed by

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<sup>21</sup> Metzger, *Profession and Constitution: Two Definitions of Academic Freedom in America* 66 Tex. L. Rev. 1265, 1269-1270 (1988).

<sup>22</sup> J. BERNAS, SJ, THE CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES 1114 (Revised Edition, 1996) [hereinafter referred to as BERNAS, THE CONSTITUTION].



the Bill of Rights of the Federal Constitution as elaborated by the courts.<sup>23</sup>

In formulating the 1935 Constitution, the Constitutional framers followed the American formulation of academic freedom.<sup>24</sup> Subsequent Constitutional Commissions also adopted the 1935 Constitutional formulation of academic freedom with some modifications.

### ***Definition***

The Constitution does not explicitly define academic freedom. It is a legal concept which is defined and shaped by jurisprudence. As noted by Commissioner Adolfo S. Azcuna in his concluding statement, "since academic freedom is a dynamic concept and we want to expand the frontiers of freedom, specially in education, therefore, we will leave it to the courts to develop further the parameters of academic freedom."<sup>25</sup>

In the case of *Tangonan v. Cruz Pano*,<sup>26</sup> the Supreme Court explained academic freedom as to include: 1) not only the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see it in the field of their competence subject to no control or authority except of rational methods by which truths and conclusions are sought and established in these disciplines; 2) but also the right of the school or college to decide for itself how best to attain them — the grant being to institutions of higher learning — free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint.<sup>27</sup>

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<sup>23</sup> Fernando, *Academic Freedom as a Constitutional Right*, 52 Phil. L. J. 289, 290 (1977).

<sup>24</sup> J. BERNAS, *THE CONSTITUTION* 1114-1115

<sup>25</sup> J. BERNAS, *THE INTENT* 1098-1099.

<sup>26</sup> *Tangonan v. Cruz Pano*, G.R. No. 45157, June 27, 1985, 137 SCRA 245 (1985).

<sup>27</sup> *Id.* at 256 - 257.

As defined by the Supreme Court, academic freedom consists of the right of the teacher to pursue his research and to disseminate his findings, which is commonly known as individual academic freedom. It also consists of the right of the institution to govern, otherwise called institutional academic freedom. While these two rights are enmeshed in the grant of academic freedom to institutions of higher learning, each is different from the other.

Individual academic freedom is defined by the Supreme Court as:

... the right of a faculty member to pursue his studies in his particular specialty and thereafter to make known or publish the result of his endeavors without fear that retribution would be visited on him in the event that his conclusions are found distasteful or objectionable to the power that be, whether in the political, economic, or academic establishment. It is a right claimed by the accredited educator, as teacher and as investigator, to interpret his findings and to communicate his conclusions without being subject to any interference, molestation or penalization because these conclusions are unacceptable to some constituted authority within or beyond the institution.<sup>28</sup>

Fr. Joaquin Bernas, quoting Arthur Lovejoy, provides a non-legal definition of individual academic freedom as:

... the freedom of the teacher or research worker in higher institutions of learning to investigate and discuss the problems of his science and to express his conclusions, whether through publication or in the instruction of students, without interference from political or ecclesiastical authority, or from administrative officials of the institution in which he is or contrary to professional ethics.<sup>29</sup>

As Fr. Bernas further notes in his commentary, these definitions show that the core of the matter is the freedom of the intellectual teacher from control of thought or utterance from either within or without the academic institution. The emphasis is not on the

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<sup>28</sup> *Garcia v. Faculty Admissions Committee*, *supra* at 283-284.

<sup>29</sup> BERNAS, *THE CONSTITUTION* 1115.

autonomy of the institution but on the intellectual autonomy of the academic teacher.<sup>30</sup>

On the other hand, institutional academic freedom is tersely defined by the Supreme Court as the possession of authority over four essential freedoms. The High Tribunal has declared that:

... the business of a university [is] to provide the atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail the four essential freedoms of a university — to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught and who may be admitted to study.<sup>31</sup>

These four freedoms of a university stand together as components of one single right, the academic freedom of the university. They are the elements inherent in the nature and indispensable to the purposes of the university which are the pursuit of truth, the advancement of knowledge, the discovery of new learning and the transmission of higher education through a system of critical teaching.<sup>32</sup> Consequently, these freedoms are interrelated and are inseparable from one another so much so that the absence of one will lead to a deprivation of institutional academic freedom.

Aside from these two entities, Philippine jurisprudence has slowly recognized the right of another entity to academic freedom — the students. As Justice Makasiar pointed out in the case of Garcia:

... academic freedom is not limited to the members of the faculty nor to the administrative authorities of the educational institution. It should also be deemed granted in favor of the student body, because all three — the administrative authorities of the college or university, its faculty and its student population — constitute the educational institution, without any one of which the educational institution can neither exist nor operate. The educational institution is

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<sup>30</sup> *Ibid.*

<sup>31</sup> *Garcia v. Faculty Admissions Committee*, *supra* at 285.

<sup>32</sup> V. SINCO, PHILIPPINE POLITICAL LAW: PRINCIPLES AND CONCEPTS 491 (11th ed., 1962) [hereinafter referred to as SINCO, PHILIPPINE POLITICAL LAW].

permitted by the State to exist and operate, not for the benefit of its administrative authorities or faculty members, but for the benefit of its studentry.<sup>33</sup>

Professor Perpetuo Lotilla of the UP College of Law notes the dearth of jurisprudence on student academic freedom. He pointed out that whereas academic freedom of the teacher is accepted in law and in fact, and whereas still, institutional autonomy is guaranteed in the Constitution, has been applied by the courts and is being incorporated in legislation, the students' bid for recognition of their academic freedom 'though strong' and 'has gained ground' still has much more ground to cover.<sup>34</sup>

It is noteworthy to point out that the 1986 Constitutional Commission attempted to expressly provide for student academic freedom. When Article XIV of the Constitution was being deliberated upon, the Committee on Human Resources proposed the following text:

Sec. 3. All institutions of higher learning as well as faculty members and students thereof, shall enjoy academic freedom. Institutions of higher learning shall enjoy fiscal autonomy.<sup>35</sup>

The Committee was obviously identifying three parts of an educational institution as enjoying the constitutional guarantee of academic freedom — the institution, the faculty and the students.

Commissioner Gascon, in justifying the recognition of student academic freedom, opined that the denial of academic freedom to students would be a violation of equal protection and the fact that students might have less knowledge than teachers was no reason for curtailing their academic freedom. He based his assertion on the

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<sup>33</sup> *Dissenting Opinion of Justice Makasiar in Garcia, supra* at 291.

<sup>34</sup> Lotilla, *Student Academic Freedom in Institutions of Higher Learning*, 57 Phil. L. J. 552, 556 (1982).

<sup>35</sup> BERNAS, *THE INTENT* 1092.

notion that academic freedom belonged to the university and that students were part of the university community.<sup>36</sup>

In the final deliberations, Commissioner Christian S. Monsod proposed to delete the reference to "faculty members and students thereof." He argued that "institutions of higher learning" already included them. This proposal was also echoed by Commissioner who said that in such formulation<sup>37</sup> the freedom would not just be of the institution but in the institution, that is belonging to those who make up the institution.<sup>38</sup> Hence, as presently worded, the phrase institutions of higher learning includes not only the institution and the faculty but the students as well.

The Constitutional Commission, however, did not specifically define student academic freedom in its deliberations. Commissioner Bernas attempted to do so.<sup>39</sup> He pointed out that the academic freedom of students consists only of "the right of the student not to be prevented to do research and to publish it — if he can find a publisher, of course, or if he can publish it himself. All the rest just seems to be a mere recognition of due process. This may also include the fact that the students should be consulted about school policy and so forth."<sup>40</sup>

While it may appear that the academic freedom of students can be subsumed under the Bill of Rights, a delineation of its scope is still in order to emphasize its extent. Student academic freedom, in this commentary, refers to the student's freedom to study the principles and ideas of his chosen science and his freedom to accept or contest such principles without fear of retribution or dismissal from the institution.

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<sup>36</sup> BERNAS, THE INTENT 1095.

<sup>37</sup> Academic freedom shall be enjoyed in all institutions of higher learning.

<sup>38</sup> BERNAS, THE INTENT 1098-1099.

<sup>39</sup> During the deliberations of the 1986 Constitutional Commission, Fr. Bernas quoted the study made by Prof. Lotilla and published in the Philippine Law Journal (Lotilla, *op. cit.*, note 34 at 589) on the nature and scope of student academic freedom. For further details please refer to BERNAS, THE INTENT 1097.

<sup>40</sup> BERNAS, THE INTENT 1097-1098.

The freedom should not be construed as an absolute freedom and must be interpreted in the context of a student's role in the university. A student must learn the building blocks of his science as well as develop a critical attitude which is an important ingredient for social change. Hence, as long as the student is given the opportunity to learn and criticize a principle in an atmosphere of openness then student academic freedom is observed. Any device which prevents the student from freely assimilating and testing what is being taught to him results to a denial of student academic freedom.

### ***Importance***

Academic freedom is part and parcel of the educational process. Without it, the growth and development of knowledge will not be possible. As explained by former Chief Justice Enrique Fernando:

Academic freedom is one aspect of the freedom that redeems man alike from superstition and from brutal servitude, the freedom of the mind, of which Milton said: "Give me liberty to know, to utter and to argue freely according to conscience, above all liberties." Thereby colleges and universities are enabled to extend the frontiers of knowledge, to make available to students the wisdom and knowledge of the past, and to help them develop their capacities for critical, independent thought that is the primary task of professors as educators.<sup>41</sup>

The need for academic freedom for each of the three entities discussed earlier is a function of their roles in the educational system.

As for the teacher, academic freedom is needed because he is a technical expert and, as such, acts as an adviser or informant of the community at large on questions falling within the scope of his science. Like those of a judge his opinions should be considered authoritative and impartial; and so he should be removed from the influence of any person or any class. And since he has to discover new truths to supplant old ideas, which must be discarded when they become outmoded, the investigator or professor in a university must be given

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<sup>41</sup> Fernando, *op. cit.*, *supra* note 23 at 291.

complete freedom in the expression of his conclusions if he is to perform this task faithfully.<sup>42</sup>

On the other hand, educational institutions must be given the discretion on what policies and programs must be undertaken to realize its vision and mission. State intrusion into academic affairs of the university may not only hinder the free exchange of ideas but also undermine the existence of the university for the reason that the former will try to propagate what it believes to be the truth and suppress those which is anathema to its existence. In the end, the university will no longer be an avenue where ideas are fully expressed but instead will simply be a reflection of what the State wants it to be.

Academic freedom is also a necessity for students for they too must also have the opportunity to search for the truth and develop critical thinking. Knowledge cannot be properly imparted if students were to accept what is being taught to them hook, line, and sinker. For how can a student fully realize his potentials if he were tied to a single belief system of which he cannot question or subject to a test?

In sum, academic freedom guarantees the interests of the institution, faculty, and the students. Indeed, academic freedom protects a collective interest: the pursuit of knowledge by all members of the academe.<sup>43</sup>

### SCHOOLS AND STUDENTS

Education in the Philippines, particularly higher education, is administered either through a public or a private university. Public schools are those established and maintained at public expense, primarily from money raised by general taxation. Organized either as chartered or non-chartered institutions, they are controlled and administered by the State or its agencies. On the other hand, private schools are ordinarily owned, supported, and controlled by private

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<sup>42</sup> SINCO, PHILIPPINE POLITICAL LAW 493.

<sup>43</sup> Lotilla, *op. cit.*, note 34 at 557.

persons or by private and eleemosynary corporation.<sup>44</sup> They are organized either as stock or non-stock corporations.<sup>45</sup>

The highest decision-making body of any university is its governing board. Chartered colleges like the University of the Philippines, Polytechnic University of the Philippines, Technological University of the Philippines, Mindanao State University, and the Philippine Normal College are governed by their respective governing boards, some of which are called Board of Regents, others Board of Trustees or Board of Directors. These boards are expressly provided in the charters or enabling acts which created them. Government schools which are not chartered are governed by the Ministry of Education Culture and Sports<sup>46</sup> (MECS), not by a board of directors. Private schools, whether stock or non-stock, also have their governing boards which exercise powers granted to them under the Corporation Code and other existing laws.<sup>47</sup>

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<sup>44</sup> Dela Cuesta, *State Assistance to Private Education in RA 6728: A Search for Constitutional Viability*, 66 Phil. L. J. 42 (1991).

<sup>45</sup> Batas Pambansa Blg. 232 has stopped the practice of incorporating universities as stock corporations. To establish any private institution of higher learning, it now requires that such institution be incorporated as a non-stock corporation. As for existing stock educational institutions, they remain as they are so long as they exist.

The Board of Trustees of non-stock educational institutions and the Board of Directors of stock educational institutions differ. Under Sec. 108 of the Corporation Code (Batas Pambansa Blg. 68), trustees of educational institution organized as non-stock corporations shall not be less than five (5) nor more than fifteen (15): Provided, however, That the number of trustees shall be in multiples of five (5). Unless otherwise provided in the articles of incorporation or the by-laws, the board of trustees of incorporated schools, colleges or other institutions of learning shall, as soon as organized, so classify themselves that the term of office of one-fifth (1/5) of their number shall expire every year. Trustees thereafter elected to fill vacancies, occurring before the expiration of a particular term, shall hold office only for the unexpired period. Trustees elected thereafter to fill vacancies caused by expiration of term shall hold office for five (5) years. A majority of the trustees shall constitute a quorum for the transaction of business. The powers and authority of trustees shall be defined in the by-laws. For institutions organized as stock corporations, the number and term of directors shall be governed by the provisions on stock corporations.

<sup>46</sup> Presently called the Department of Education Culture and Sports (DECS).

<sup>47</sup> A. DIZON, *EDUCATION ACT OF 1982 ANNOTATED* 26-27 (1st ed., 1983). See also Batas Pambansa Blg. 232 (1982), sec. 31.



Aside from the powers granted under the Corporation Code, Batas Pambansa Blg. 232 authorizes educational institutions, through their governing boards or lawful authorities, to provide for the proper governance of the school and to adopt and enforce administrative or management systems as well as the right to determine on academic grounds, who shall be admitted to study, who may teach, and what shall be subjects of the study and research.<sup>48</sup> Republic Act 8292 also expands the powers exercised by the governing boards of state colleges and universities to make it more responsive to the changing needs of the times.<sup>49</sup>

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<sup>48</sup> Batas Pambansa Blg. 232 (1982), sec. 13.

<sup>49</sup> Rep. Act 8292 (1997), sec. 4. **Powers and Duties of Governing Boards.** — The governing board shall have the following specific powers and duties in addition to its general powers of administration and the exercise of all the powers granted to the board of directors of a corporation under Section 36 of Batas Pambansa Blg. 68, otherwise known as the Corporation Code of the Philippines:

- a) to enact rules and regulations not contrary to law as may be necessary to carry out the purposes and functions of the university or college;
- b) to receive and appropriate all sums as may be provided, for the support of the university or college in the manner it may determine, in its discretion, to carry out the purposes and functions of the university or college;
- c) to receive in trust legacies, gifts and donations of real and personal properties of all kinds, to administer and dispose the same when necessary for the benefit of the university or college, subject to limitations, directions and instructions of the donors, if any. Such donations shall be exempt from all taxes and shall be considered as deductible items from the income tax of the donor: Provided, however, That the rights, privileges and exemptions extended by this Act shall likewise be extended to non-stock, non-profit private universities and colleges: Provided, finally, That the same privileges shall also be extended to city colleges and universities with the approval of the local government to city colleges and universities with the approval of the local government unit concerned and in coordination with the CHED;
- d) to fix the tuition fees and other necessary school charges, such as but not limited to matriculation fees, graduation fees and laboratory fees, as their respective boards may deem proper to impose after due consultations with the involved sectors.

Such fees and charges, including government subsidies and other income generated by the university or college, shall constitute special trust funds and shall be deposited in any authorized government depository bank, and all interests shall accrue therefrom shall part of the same fund for the use of the university or college: Provided, That income derived from university hospitals shall be exclusively earmarked for the operating expenses of the hospitals.

Any provision of existing laws, rules and regulations to the contrary notwithstanding, any income generated by the university or college from tuition fees and other charges, as well as from the operation of auxiliary services and land grants, shall be retained by the university or college, and may be disbursed by the Board of Regents / Trustees for instruction, research, extension, or other programs/projects of the university or college: Provided, That all fiduciary fees shall be disbursed for the specific purposes for which they are collected.

If, for reason its control, the university or college, shall not be able to pursue any project for which funds have been appropriated and, allocated under its approved program of expenditures, the Board of Regents / Trustees may authorize the use of said funds for any reasonable purpose which, in its discretion, may be necessary and urgent for the attainment of the objectives and goals of the universities or college;

e) to adopt and implement a socialized scheme of tuition and school fees for greater access to poor but deserving students;

f) to authorize the construction or repair of its buildings, machineries, equipment and other facilities and the purchase and acquisition of real and personal properties including necessary supplies, materials and equipment. Purchases and other transactions entered into by the university or college through the Board of Regents / Trustees shall be exempt from all taxes and duties;

g) to appoint, upon the recommendation of the president of the university or college, vice presidents, deans, directors, heads of departments, faculty members and other officials and employees;

h) to fix and adjust salaries of faculty members and administrative officials and employees subject to the provisions of the revised compensation and classification system and other pertinent budget and compensation laws governing hours of service, and such other duties and conditions as it may deem proper; to grant them, at its discretion, leaves of absence under such regulations as it may promulgate, any provisions of existing law to the contrary notwithstanding; and to remove them for cause in accordance with the requirements of due process of law;

i) to approve the curricula, institutional programs and rules of discipline drawn by the administrative and academic councils as herein provided;

j) to set policies on admission and graduation of students;

k) to award honorary degrees upon persons in recognition of outstanding contribution in the field of education, public service, arts, science and technology or in any field of specialization within the academic competence of the university or college and to authorize the award of certificates of completion of non-degree and non-traditional courses;

l) to absorb non-chartered tertiary institutions within their respective provinces in coordination with the CHED and in consultation with the Department of Budget and Management, and to offer therein needed programs or courses, to promote and carry out equal access to educational opportunities mandated by the Constitution;

On the other hand, the law also gives protection to students. Like all natural persons, students enjoy the protection and guarantee afforded by the Constitution to all persons under the Bill of Rights.

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- m) to establish research and extension centers of the SUC where such will promote the development of the latter;
- n) to establish chairs in the university or college and to provide fellowships for qualified faculty members and scholarships to deserving students;
- o) to delegate any of its powers and duties provided for hereinabove to the president and / or other officials of the university or college as it may deem appropriate so as to expedite the administration of the affairs of the university or college;
- p) to authorize an external management audit of the institution, to be financed by the CHED and to institute reforms, including academic and structural changes, on the basis of the audit results and recommendations;
- q) to collaborate with other governing boards of SUCs within the province or the region, under the supervision of the CHED and in consultation with the Department of Budget and Management, the restructuring of said colleges and universities to become more efficient, relevant, productive, and competitive;
- r) to enter into joint ventures with business and industry for the profitable development and management of the economic assets of the college or institution, the proceeds from which to be used for the development and strengthening of the college or university;
- s) to develop consortia and other forms of linkages with local government units, institutions and agencies, both public and private, local and foreign, in furtherance of the purposes and objectives of the institution;
- t) to develop academic arrangements for institution capability building with appropriate institutions and agencies, public or private, local or foreign, and to appoint experts/specialists as consultants, or visiting or exchange professors, scholars, researchers, as the case may be;
- u) to set up the adoption of modern and innovative modes of transmitting knowledge such as the use of information technology, the dual system, open learning, community laboratory, etc., for the promotion of greater access to higher education;
- v) to establish policy guidelines and procedures for participative decision-making and transparency within the institution;
- w) to privatize, where most advantageous to the institution, management and non-academic services such as health, food, building or grounds or property maintenance and similar such other objectives; and
- x) to extend the term of the president of the college or university beyond the age of retirement but not later than the age of seventy (70), whose performance has been unanimously rated as outstanding and upon unanimous recommendation by the search committee for the president of the institution concerned.

These rights are carried by the student even upon entering the premises of the school such as the right to due process and to freedom of expression.<sup>50</sup>

Aside from constitutionally-guaranteed rights, our laws further provide for other rights to students. Among such rights are the rights to receive, primarily through competent instruction, relevant quality education in line with national goals and conducive to their full development as person with human dignity;<sup>51</sup> to freely choose their field of study subject to existing curricula and to continue their course therein up to graduation, except in cases of academic deficiency, or violation of disciplinary regulation;<sup>52</sup> to free expression of opinions and suggestions, and to effective channels of communication with appropriate academic channels and administrative bodies of the school or institution.<sup>53</sup>

Interestingly enough, no express provision for student representation in the board of directors or trustees can be found in Batas Pambansa Blg. 232. The law merely requires schools to create appropriate academic and administrative bodies through which students can freely express their opinions and suggestions. This provision was meant to answer the students' clamor for a seat in the governing board of schools.<sup>54</sup>

The limited participation of students in the formulation of school policies was later remedied by Republic Act 8292.<sup>55</sup> Under this law,<sup>56</sup> the president of the supreme student council or the student representative elected by the student council in state colleges and

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<sup>50</sup> *Ebralinag v. Division Superintendent of Schools of Cebu*, G.R. Nos. 95770 - 95887, March 1, 1993, 219 SCRA 256 (1993).

<sup>51</sup> Batas Pambansa Blg. 232 (1982), sec. 9, par. (1).

<sup>52</sup> Batas Pambansa Blg. 232 (1982), sec. 9, par. (2).

<sup>53</sup> Batas Pambansa Blg. 232 (1982), sec. 9, par. (7).

<sup>54</sup> A. Dizon, *op. cit.*, see note 47, *supra* at 19.

<sup>55</sup> Before the passage of this Republic Act, students of the University of the Philippines were already granted the right of student representation in the Board of Regents through Presidential Decree No. 58 as amended by Executive Order 204 and Executive Order 204-A.

<sup>56</sup> Rep. Act 8292 (1997), sec. 3, par. (7).

universities shall sit as a member of the governing board of the university. Thus, the issue of student representation in public universities was resolved. What remains to be resolved is the issue of student representation in private institutions.

### **STUDENT ACADEMIC FREEDOM AS BASIS FOR REPRESENTATION**

Participation in the decision-making process is usually associated with the person's right to due process of the law.<sup>57</sup> Before a person may be deprived of his life, liberty, or property, he must be notified thereof and given the opportunity to be heard.<sup>58</sup> These are the basic requirements of procedural due process which must be observed.

The same can be argued for student participation. Students must be notified of and given the opportunity to be heard on proposed school policies which regulate their life, liberty, and property before these are implemented on them. Failure on the part of the institution to do so may give rise to an arbitrary and oppressive policy.

However, the due process requirement does not guarantee student representation in the decision-making process. School officials may simply provide for consultations and dialogues with students which by themselves satisfy the notice and hearing requirement of due process. Hence, the right for student representation in the governing boards of institutions of higher learning must rest on a foundation which can sufficiently secure it. This foundation is what we refer to as academic freedom.

Recall that the grant of academic freedom to educational institutions of higher learning is for the benefit of all of its components. The right of the teacher to seek and disseminate the truth is not just to encourage inquiry and study among academicians but also to further widen the horizons of knowledge of students. The right of the university to determine its policies without state

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<sup>57</sup> CONST. art. III, sec. 1.

<sup>58</sup> BERNAS, THE CONSTITUTION 47 (1st ed., 1987).

interference is to secure the freedom to teach and learn. As explained by Prof. Lotilla:

Academic freedom is primarily the freedom to learn, and the freedom to learn is the freedom to ascertain the truth. No acquisition of knowledge can take place if learners were unfree, or if they were free, but only in assimilating what is untrue. The freedom to teach is therefore a derivative of the learner's freedom. The teacher must be free to inquire, and to hie after the truth in order to insure that the ideas transmitted to the learner constitute truth or approximate it. Freedom to teach seeks to secure the freedom to learn.<sup>59</sup>

Indeed, a teacher's business is to teach, to do research, and to publish or disseminate the fruits of his intellectual quest. The business of the students, on the other hand, is to study and to learn. As a learner, while he is not normally possessed of any expertise or specialization in any one branch of knowledge, both teacher and student need to operate in an atmosphere of open inquiry, feeling always free to challenge and improve established ideas.<sup>60</sup>

The university exists to secure that atmosphere of open inquiry. It is established to ensure the proper transmission of existing values and knowledge and the reexamination of such values and knowledge with a view to facilitating orderly change in society.<sup>61</sup> The university pursues this mandated purpose through the adoption of policies and programs free from any external interference.

Consequently, the determination of standards applying to the exercise of specific rights covered by academic freedom has to be made on a case-to-case basis, always taking full stock of the functions of an institution of higher learning which underlie student academic freedom. Any statute or rule which undermines the pursuit of those functions are violative of that freedom.<sup>62</sup>

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<sup>59</sup> Lotilla, *op. cit.*, note 34 at 553.

<sup>60</sup> A. DIZON, *LAW AND EDUCATION* 9 (1st ed., 1992).

<sup>61</sup> Lotilla, *op. cit.*, note 34 at 583.

<sup>62</sup> *Id.* at 591.

If the grant of academic freedom to students is for the purpose of realizing the objectives of an institution of higher learning, then the bundle of rights which flows therefrom must necessarily be in furtherance of the said purpose. Some of these rights include freedom of inquiry and expression in curricular activities, in extracurricular student affairs, and off-campus, due process in disciplinary actions, and participation in the governance of the institution.<sup>63</sup>

True enough, student representation in the board of directors or trustees does not impair the realization of the goals of a university. In fact, it further promotes the pursuit of these goals which is secured by academic freedom. As noted by Professor Lotilla:

The interplay of the interests of the various sectors of the academic community must be reflected in the governance of the academe. The right of students to participate therein is not directly founded on the Bill of Rights which nowhere guarantees student participation in the governing bodies of institutions of higher learning. However, neither is it grounded solely on convenience; it stems directly from student membership in the corporation of scholars. As the most numerous, the most vibrant, and most idealistic members of the academe, they are necessary in maintaining the inviolability of academic freedom.<sup>64</sup>

The parallels of constitutional liberties which should exist for students on campuses are not easy for all administrators to accept since the view is still strong, even in public institutions, that educational institutions are essentially proprietary enterprises whose owners and managers have the right to determine what to do with their property and whose good name is bound up with the use to which it may be put. The only rejoinder is that the legal rights of ownership are an insufficient basis for determining what policies should be put into effect in an educational institution. If it is to achieve its purpose as an educational enterprise then it must observe the conditions which its educational purpose requires. The basic assumption which we make is that in higher education the conditions are best summed up by

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<sup>63</sup> *Id.* at 583 - 584.

<sup>64</sup> *Id.* at 589 - 590.

regarding the educational enterprise as a community of scholars devoted to the discovery and propagation of knowledge. Those persons who have the legal responsibility for the creation of such a community best fulfill their responsibilities by giving its educational processes the largest measure of autonomy that they can.<sup>65</sup>

School policies promulgated by the governing boards of the university determines the direction to which the university will go. As stated earlier, these define the extent of what the teachers can teach and of what the students can learn. If school policies determine the nature and scope of the freedom to learn, then it necessarily follows that those who have an interest in this freedom must have a participation in the formulation of these policies.

Student participation includes involvement in the discussion and voting and not just in consultations and dialogues which cannot sufficiently secure the freedom to learn. Through these latter mechanisms, student interests are merely made known to policy-makers who eventually decide for the students what is best for them. If a student's freedom to learn is to be recognized, he must have the opportunity to decide for himself the extent of his freedom to learn. In this way, whatever policy which will be promulgated will be truly reflective of the interests of the different components of the university.

Since student representation is a necessary consequence of student academic freedom, it stands to reason that students in private universities must also enjoy the right of representation granted to their public school counterparts. This stems from the fact that the Constitution does not make any distinction as to who among the institutions of higher learning should enjoy academic freedom. In fact, it categorically refers to all institutions of higher learning, which means that both public and private institutions enjoy the same. Hence, the distinction made between public and private schools with

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<sup>65</sup> Reyes, *Emerging Student Rights and the School's Disciplinary Authority*, 45 PHIL. L. J. 543, 563 (1970), citing Mony Penny, *Toward a Standard for Student Academic Freedom*, 28 Law and Contemporary Problems 625 (1963).



respect to the grant of the right to representation is merely superficial. As pointed out by Prof. Lotilla:

Higher education is a public function, and private persons engaged in higher education are agents of the state. More accurately, they are special state agents protected in their relationship with the state by institutional autonomy, but otherwise subject to the same state obligation to observe fidelity to the constitution. Hence, there is no need for distinguishing between private and public institutions in respect of student exercise of academic freedom.<sup>66</sup>

### VALID STATE REGULATION

A law providing for student representation in the university's governing board is a valid exercise of state power over education. It is, in fact, within the ambit of state regulation of education as provided for under the Constitution and other laws.

Government regulation of educational institutions is based on the policy to foster, at all times, a spirit of shared purposes and cooperation among the members and elements of the academic community, and between the community and other sectors of society, in the realization that only in such an atmosphere can the true goals and objectives of education be fulfilled.<sup>67</sup> This policy can be effectively pursued if the state can promote and safeguard the welfare and interest of the students by defining their rights and obligations, according them privileges and encouraging the establishment of sound relationships between them and the other members of the school community.<sup>68</sup>

Prof. Sinco notes the function of state regulation of education as:

In a free and democratic state, government supervision and regulation of private educational institutions must

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<sup>66</sup> Lotilla, *op. cit.*, note 34 at 587.

<sup>67</sup> Batas Pambansa Blg. 232 (1982), sec. 5, par. (1).

<sup>68</sup> Batas Pambansa Blg. 232 (1982), sec. 5, par. (3).

necessarily be limited to the following general powers: (1) to see that an educational institution does not teach or promote doctrines and practices contrary to the criminal laws of the state, and (2) *to prevent immoral or fraudulent practices on the part of the institution.*<sup>69</sup> (Emphasis supplied)

The reason for limited state supervision and regulation lies in the fact that if the pursuit of knowledge were to be subject to stringent state regulations, no substantial advancement in ideas can be made. Greater flexibility in the exercise of supervision and regulation of institutions must be the norm to permeate higher education with the element of adventure which is indispensable toward the promotion of creativeness, innovations, and growth — essentials all for individual as well as social development.<sup>70</sup>

Immoral or fraudulent practices made by the institution contrary to the policy of shared purposes and cooperation can only be curtailed if the state were to provide avenues to arrest these practices. Such immoral or fraudulent practices may include the imposition of policies and programs which are adverse to the interests of students. This will only lead to constant friction between the administration and the student body. To arrest this situation, students should be given the opportunity to directly participate in the decision making process.

Representative Edcel Lagman explained the provision for student representation as not granting students equal rights with the administrators in the formulation of school policies. It only seeks to prevent the school administrators from unilaterally formulating and imposing school policies on the students. The principal role of the student representative is to serve as eyes and ears of the students in the deliberation of school policies, more particularly those affecting them in order to prevent the escalation of student-administration conflict.<sup>71</sup>

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<sup>69</sup> SINCO, PHILIPPINE POLITICAL LAW 482.

<sup>70</sup> Dumlao, *Governance of Higher Education: A Private View*, 52 PHIL. L. J.323, 326 (1977).

<sup>71</sup> Manila Standard, September 28, 1997 at 1 and 4.

The proposal for student representation is not a novel concept. In fact, student participation in the decision-making process had been the subject of debate in the deliberations of the 1986 Constitutional Commission. During the discussion on Article XIV of the Constitution, the Committee on Human Resources proposed the inclusion of the following text:

Sec. 2 (f) All educational institutions at all levels shall be required to form multi-sectoral bodies composed of students, faculty, parents, non-teaching staff, administrators and other representatives to participate in the formulation of school policies and programs, the details of which will be provided by law.<sup>72</sup>

Constitutional Commission Delegate Gascon explained that the proposed provision is to involve other sectors in the decision making process. He said that:

This encourages democratization of schools, because at this point in time, there is very little participation of the other sector in the educational system as far as policy making is concerned. This goes from the school level up to the Ministry of Education level.

So what is encouraged is that there will be greater opportunities for students, teachers, parents, administrators to work together in formulating policies and programs for the whole educational system, whether this be from the school level up to the Ministry of Education level.<sup>73</sup>

As to the meaning of the phrase "to participate in the formulation of school policies," no definite meaning was made by the Committee as it was divided on the subject. The Committee, however, agreed that there should be a process of consultation among the different sectors of the academic community.<sup>74</sup> For Commissioner Gascon, the phrase meant that, in the long run, the law will grant students the right to sit in the board of trustees or board of regents.<sup>75</sup>

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<sup>72</sup> BERNAS, THE INTENT 1092.

<sup>73</sup> *Id.* at 1093 - 1094.

<sup>74</sup> *Id.* at 1095.

<sup>75</sup> 4 Record of the Constitutional Commission 78 (1986).

The proposed text was later deleted in the amended version on motion of Commissioner Jose C. Colayco who raised the fear that it would in effect throw management of schools to the sectors mentioned. Commissioner Teodoro C. Bacani further argued that while consultation might be indeed an ideal, it should not be commanded in the Constitution. Commissioner Bernas added that the general power of supervision of the State should be enough to allow for the evolution of a more rational regulatory system.<sup>76</sup>

Though an express provision for direct student participation in the decision-making process was denied by the Constitutional Commission, it did not altogether operate to bar the passage of a statute embodying the same proposition. The power of supervision granted to the state as properly exercised through the policy of shared purposes and cooperation is sufficient for the state to expressly provide for student representation.

Consequently, Republic Act 8292 which expressly provides for student representation in state colleges and universities, was enacted. The rationale for the inclusion of a student board member reflects the sentiment of Commissioner Gascon for democratization in the decision-making process which benefits the institution in the long run. Under the law, the governing boards of state colleges and universities are modified in order to achieve a more coordinated and integrated system of higher education, to render the governing boards more effective in the formulation and implementation of policies on higher education, to provide for more relevant direction in their governance and to ensure the enjoyment of academic freedom as guaranteed by the Constitution.<sup>77</sup>

Private school owners cannot hide under their proprietary right in insisting that the composition of their governing boards be left to their discretion. Such right must yield in the light of a legitimate

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<sup>76</sup> See note 74, *supra*.

<sup>77</sup> Rep. Act 8292 (1997), sec. 2.

state interest. As pointed out by Justice Makasiar in the case of *Garcia*:

It should be stressed that education is a sovereign state function. It is a vital duty of the State which can delegate the same to private educational institutions that are qualified and duly authorized to operate. Private educational institutions are, therefore, not different in this respect from the commercial public utilities, whose right to exist and to operate depends upon state authority. The moment they are allowed to operate they must abide by the Constitution, laws and implementing rules of the Government on the matter.<sup>78</sup>

As pointed out earlier, private educational institutions do not operate by themselves. They are considered as agents of the State who assist the latter in performing its mandated duty of educating its children. For this reason, they do not differ considerably from public institutions of higher learning.

Moreover, private school owners cannot insist that students are incapable of performing the functions of a board member. The expeditious exchange and assimilation of information have equipped the youth with the necessary skills vital for our nation's progress. As a matter of fact, in recognition of the vital role which the youth now plays in national development, the government has launched a National Youth Development Plan (NYDP)<sup>79</sup> which aims to maximize the youth's vital role in society and their active participation in nation building; to promote and protect the physical, moral, spiritual, intellectual and social well-being of the youth through the conscious exercise of their rights and duties; and to instill and encourage the youth's patriotism and nationalism.

Under the said Plan, the state is tasked to develop critical thinking and enhance self-motivation among the in-school youth towards the protection of their rights as students and the realization of their potentials, and to institutionalize consultations with students, indigenous groups and other basic sectors with major changes in

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<sup>78</sup> *Dissenting Opinion of Justice Makasiar in Garcia, supra* at 296-297.

<sup>79</sup> Exec. Order No. 176 (1994), 90 O.G. 28 (July 11, 1994).

national policies, specifically curricula and development projects. Indeed, the NYDP is a recognition of the emerging role of the youth as an agent of social change whose views and ideas are considered vital to national development. It stands to reason that as agents of social change, the youth should be given the opportunity to express and protect their interests against school administrators.

In addition, the proposed law does not intrude into the institutional academic freedom of the school. As discussed earlier, the school's academic freedom grants it control over the four essential freedoms. Institutional academic freedom is the right of the institution to decide for itself its aims and objectives and how best to attain them. It is free from outside coercion or interference save possibly, when the overriding public welfare calls for some restraint.<sup>80</sup> Hence, as long as the decisions are made solely through the policy-making body with little or no interference from the government, academic freedom is guaranteed.

Student representation does not give the government an opportunity to meddle into the academic affairs of the institution. A student representative does not represent the interests of the government in the board of directors; rather, he represents the interests and concern of the student body. Whatever position he takes will reflect the sentiments of the student body and not that of the State. Consequently, any decision reached by the board is a result of a balancing of interests between the components of the educational institution and not due to the intrusion of an external component.

Even Republic Act 8292 recognizes the furtherance of academic freedom in student representation. In fact, it expressly states that the composition of the governing boards of chartered state universities and colleges is modified to ensure the enjoyment of academic freedom as guaranteed by the Constitution.<sup>81</sup>

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<sup>80</sup> Fernando, *op. cit.* see note 24, *supra*, at 294.

<sup>81</sup> Rep. Act 8292 (1997), sec. 2 (d).

### CONCLUSION

Academic freedom is a right and not simply a privilege which is guaranteed by the Constitution to the teacher, to the institution, and more importantly to the students. The grant to students of academic freedom is by no means a freak of nature. It stems from the fact that the state has recognized the emerging roles of the youth as indispensable components of institutions of higher learning and as agents of meaningful social change. The youth can only properly act out their roles if they possess the requisite knowledge and skills which educational institutions provide them.

The proper acquisition of knowledge which academic freedom seeks to secure cannot be effectively pursued if the relationship between the school and the student body is characterized by constant friction and protests. Only in an atmosphere of cooperation can there be a meaningful exchange of ideas. Such an atmosphere can be cultivated if the component parts of the educational institution are given the opportunity to participate in the decision-making process. Without such opportunity, there will always be someone who will feel aggrieved and shortchanged.

However, students by themselves cannot secure their right to sit in the highest decision-making bodies of the university without engaging school authorities in a struggle. To avoid this conflict, the state must intervene and protect the rights of the students by enacting laws to define their rights. House Bill No. 9935 attempts to intervene in the educational arena in the name of students' rights.

Indeed, the grant to students of the right to sit in the university's governing board is a positive step towards giving them a direct role in the formulation of policies and avoid the constant friction and conflicts that arise between the school and students for the reason that school policies are insensitive to the needs of the students.

