Keeping the Faith: A Study of Freedom of Thought, Conscience, and Religion in ASEAN
### Philippines

<table>
<thead>
<tr>
<th>Formal Name</th>
<th>Republic of the Philippines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital City</td>
<td>Manila</td>
</tr>
<tr>
<td>Declared Relationship between State and Religion</td>
<td>The principle of the separation of church and state is established in the Constitution. Section 6, Article II, Declaration of Principles and State Policies, states: “The separation of Church and State shall be inviolable.” Section 5, Article III, Bill of Rights, states that, “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.”</td>
</tr>
<tr>
<td>Form of Government</td>
<td>Presidential (multi-party democracy with elected president and legislature)</td>
</tr>
<tr>
<td>Regulation of Religion</td>
<td>No regulation of religion.</td>
</tr>
<tr>
<td>Total Population</td>
<td>98,734,798¹</td>
</tr>
<tr>
<td>Religious Demography (National Statistics Office, 2010 Census on Population and Housing)</td>
<td>Roman Catholic (including Catholic Charismatic), 80.6%; Islam, 5.65%; Evangelicals, 2.7%; Iglesia ni Cristo, 2.4%; Protestant and Non-Catholic Churches, 1.7%; Iglesia Filipina Independiente, 1%; Seventh Day Adventist, 0.7%; Bible Baptist Church, 0.7%; United Church of Christ in the Philippines, 0.5%; Jehovah’s Witness, 0.4%; None, 0.08%; Others/Not reported, 4.2%. (See Annex 1 for descriptions of the religious groups.)</td>
</tr>
<tr>
<td>Changing Religious Demography</td>
<td>Data collected over the last 50 years indicate that the Philippines is predominantly Roman Catholic (around 80% of the population), with Muslims (comprising around 5% of the population) as the largest non-Christian group in the country.</td>
</tr>
</tbody>
</table>

¹ Projected from 2010 Census of Population and Housing using the 1.89% growth rate; 2010 population documented at 92,337,852 on May 1, 2010. On July 28, 2014, the population was recorded to have reached 100,000,000. J. R. Uy and J. A. Gabieta, 100 millionth Filipino is a baby girl, PHILIPPINE DAILY INQUIRER, p. 1, at http://newsinfo.inquirer.net/623904/100-millionth-filipino-is-a-baby-girl.
INTRODUCTION

The separation of church and state has long been established in Philippine constitutional law, starting with its first Constitution in 1899 following the revolution of independence from Spain, through all the American-era charters from 1902 to 1935, the Marcos Constitution of 1973, and the current 1987 Constitution. Starting from 1902, the Philippines adopted the language and doctrine of American constitutional law, structured along the free exercise and the establishment clauses.

These formal doctrines of separation, however, are applied in a context very different from their American origins, since the Philippines is predominantly Roman Catholic, with a distinct but small Muslim minority concentrated in its southernmost islands. Moreover, the Roman Catholic clergy has historically been involved in secular affairs and many of their religious practices have been absorbed into the nation's culture. This study examines the state practice on freedom of thought, conscience, and religion as situated within the legal and social complexities that arise from the transplantation of American church-state doctrine into the Philippines. It will point out the gaps between the formal separation that has been codified into law vis-à-vis the actual practice reflecting the dominance of the majority religion, and the legal arguments to either excuse or contest such deviations from the principle of separation.

Brief historical background

The Philippines was a Spanish colony from the mid-1500s until June 1898 when native revolutionaries declared independence in Cavite in the outskirts of Manila. At around the same time, the Spanish-American War had broken out and the United States captured Manila in August 1898, while the revolutionaries controlled the neighbouring provinces surrounding Manila. Spain surrendered to the United States in the Treaty of Peace of December 1898. Meanwhile, by January 1899, the revolutionaries promulgated what is now called the Malolos Constitution, named after the city outside Manila where delegates representing the independence forces all over the archipelago gathered to write a constitution.

When the Spanish arrived in the Philippines, the islands had not been unified under a single government but were organized in distinct island and tribal communities. They had no common religion, except for the Muslims in the southernmost island of Mindanao and, significantly, smaller Muslim sultanates that governed what is now Manila. However, when Spain colonized the islands, they brought in the missionary orders who succeeded in spreading Roman Catholicism, except in Mindanao which was never colonized and of which only the colonial outpost of Zamboanga was brought under Spanish flag.

Still, Spain adopted the union of church (Roman Catholicism) and state in the Philippine archipelago. This was ended by both the 1898 Treaty of Paris, which provided that the “civil rights and political status of the native inhabitants” shall be determined by the United States Congress, and the 1899 Malolos Constitution which declared that “the state recognizes the freedom and equality of all religions, as well as the separation of the church and the state.” After the defeat of the independence movement, the United States Congress adopted the Philippine Bill of 1902 which extended the “free exercise” and “establishment” clauses for Filipinos. That model has since been sustained in every Philippine constitution to the present: the 1935 Constitution under which the country became an American commonwealth, under which it became independent in 1946, and under which President Ferdinand Marcos declared martial law in 1972; the 1973 Constitution under which Marcos established his one-man rule; and the 1987 Constitution adopted under President Corazon Aquino after the ouster of Marcos.
Religious profile of the Philippines

The Philippines is predominantly Roman Catholic. The Muslims are the largest non-Christian group in the country concentrated in the island of Mindanao in the southern part of the archipelago. In the 2010 Census of Population and Housing (CPH), Protestant churches were classified based on their membership in two umbrella organizations: the Philippine Council of Evangelical Churches (PCEC) and the National Council of Churches in the Philippines (NCCP). The Iglesia ni Cristo (INC) is an indigenous Christian church established in 1913 by a Filipino preacher. The Iglesia Filipina Independiente is a Christian church established during the Philippine Revolution of 1898, and is now a member church of the NCCP. American missionaries established the Seventh Day Adventists, Jehovah’s Witnesses, and the Church of Jesus Christ of Latter-Day Saints (Mormon Church) in the Philippines. Interestingly, the Census of Population and Housing has separately listed the Seventh Day Adventists and Jehovah’s Witnesses since 1990, but not the Mormon Church despite its significant membership.

Pentecostal and charismatic movements have also flourished in the country. The Pew Forum on Religious and Public Life survey shows that 4 out of 10 Catholics identify themselves as charismatic, and 7 out of 10 Protestants identify themselves as either Pentecostal or charismatic. The largest Catholic charismatic group in the country is the El Shaddai, claiming followership of 8 million; one of the largest Pentecostal groups is the Jesus is Lord Movement, claiming membership of 5 million. Indigenous peoples in the Philippines, comprising 110 ethno-linguistic groups and some 11 million people, were formerly categorized as “non-Christian tribes” which is now no longer recognized as a separate category in the CPH.

The national census

The population census is conducted by the National Statistics Office (NSO) on a quinquennial basis. The 2010 Census of Population and Housing (CPH) is the most recent national population census. The next CPH is scheduled in 2015. For the purpose of this national report, the self-report by religious groups on church membership is compared to that of the official CPH figures (see Table 1). Among the churches surveyed, the Roman Catholic Church and the Iglesia ni Cristo do not allow access to church information on membership.

The PCEC lists 71 denominations, among them the Bible Baptist Church (which is counted as a separate group in the 2010 CPH), as well as several hundred local churches and para-churches (including maternity centres and seminaries).

The NCCP lists 14 member denominations, among them, the United Church of Christ in the Philippines (UCCP) and Iglesia Filipina Independiente (IFI), both counted as separate groups in the 2010 CPH and nine associate member organizations, including the Student Christian Movement and the Philippine Bible Society. The 2010 census does not specify whether the data for PCEC already includes the data

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of its member Bible Baptist Church. Likewise, it does not specify whether the data for NCCP already include two of its largest member churches, the UCCP and the IFI. The Salvation Army, the Independent Methodists and Lutherans are members of both PCEC and NCCP and register their membership in both organizations.

<table>
<thead>
<tr>
<th>GROUP</th>
<th>2010 CENSUS OF POPULATION AND HOUSING 92,097,978 (100%)</th>
<th>SELF-REPORT Data across the years 2008, 2011, 2013, and 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roman Catholic Including Catholic Charismatic</td>
<td>74,211,896</td>
<td>80.6%</td>
</tr>
<tr>
<td>Islam</td>
<td>5,127,084</td>
<td>5.65%</td>
</tr>
<tr>
<td>Evangelicals [Philippine Council of Evangelical Churches (PCEC) Member Denominations]</td>
<td>2,469,957</td>
<td>2.7%</td>
</tr>
<tr>
<td>Iglesia ni Cristo (INC)</td>
<td>2,251,941</td>
<td>2.4%</td>
</tr>
<tr>
<td>Protestant and Non-Catholic Churches (NCCP Member Denominations excluding the following denominations: United Church of Christ in the Philippines, Iglesia Filipina Independiente, Convention of Philippine Baptist Churches)</td>
<td>1,071,686</td>
<td>1.7%</td>
</tr>
</tbody>
</table>

\(^8\) Bureau of Muslim Settlements estimate as of 2012 based on 2.38% annual growth rate with 2000 as base year.
\(^9\) Letter to Erika Rosario, Project Research Assistant, dated April 21, 2014.
\(^10\) NCCP presently updating membership database. Information to be released 3rd quarter of 2014.
### Philippines

<table>
<thead>
<tr>
<th>Religion</th>
<th>Membership</th>
<th>% of Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iglesia Filipina Independiente (Aglipay)</td>
<td>916,639</td>
<td>1%</td>
</tr>
<tr>
<td>Seventh Day Adventist</td>
<td>681,216</td>
<td>0.7%</td>
</tr>
<tr>
<td>Bible Baptist Church</td>
<td>480,409</td>
<td>0.7%</td>
</tr>
<tr>
<td>United Church of Christ in the Philippines</td>
<td>449,028</td>
<td>0.5%</td>
</tr>
<tr>
<td>Jehovah’s Witness</td>
<td>410,957</td>
<td>0.4%</td>
</tr>
<tr>
<td>Latter Day Saints (Mormons)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>None</td>
<td>73,248</td>
<td>0.08%</td>
</tr>
<tr>
<td>Others/Not reported</td>
<td>3,953,917</td>
<td>4.2%</td>
</tr>
</tbody>
</table>

**The Salvation Army**: 5,536
United Church of Christ in the Philippines (UCCP): 1,122,393
United Methodist Church (UMC): 245,595

**Also a PCEC member church**

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11 Data from the Baptist World Alliance, from information provided by member Baptist conferences, namely: Baptist Conference of the Philippines, Inc., Convention of Philippine Baptist Churches, Inc., Convention of Visayas and Mindanao of Southern Baptist Churches, General Baptist Churches of the Philippines, Inc., Luzon Convention of Southern Baptist Churches, Inc

12 Jehovah’s Witnesses call members actively preaching “publishers.”
### Table 2.
Changing Religious Demography

<table>
<thead>
<tr>
<th>Group</th>
<th>1960¹³</th>
<th>1970¹⁴</th>
<th>1980¹⁵</th>
<th>1990¹⁶</th>
<th>2000¹⁷</th>
<th>2010¹⁸</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Population</strong></td>
<td>27,087,685 (100%)</td>
<td>36,684,486 (100%)</td>
<td>47,914,017 (100%)</td>
<td>60,561,106 (100%)</td>
<td>76,332,470 (100%)</td>
<td>92,097,978 (100%)</td>
</tr>
<tr>
<td><strong>Roman Catholic</strong></td>
<td>22,686,096 (83.8%)</td>
<td>31,169,488 (85%)</td>
<td>Question on religion not included in 1980 census</td>
<td>50,217,801 (82.9%)</td>
<td>61,862,898 (81%)</td>
<td>74,211,896 (80.6%)</td>
</tr>
<tr>
<td><strong>Islam</strong></td>
<td>1,317,475 (4.8%)</td>
<td>1,584,963 (4.3%)</td>
<td>-</td>
<td>2,769,643 (4.7%)</td>
<td>3,862,409 (5%)</td>
<td>5,127,084 (5.6%)</td>
</tr>
<tr>
<td><strong>Mainline Protestants</strong></td>
<td>785,399 (2.9%)</td>
<td>1,122,999 (3.1%)</td>
<td>-</td>
<td>Specified into Denominations*</td>
<td>Specified into Denominations*</td>
<td>Specified into Denominations*</td>
</tr>
<tr>
<td><strong>Evangelicals (under PCEC, except 1990)</strong></td>
<td>No data</td>
<td>No data</td>
<td>-</td>
<td>No data</td>
<td>423,151 (0.8%)</td>
<td>2,152,786 (2.8%)</td>
</tr>
<tr>
<td><strong>Iglesia ni Cristo</strong></td>
<td>270,104 (1%)</td>
<td>475,407 (1.3%)</td>
<td>-</td>
<td>1,414,393 (2.3%)</td>
<td>1,762,845 (2.3%)</td>
<td>2,251,941 (2.4%)</td>
</tr>
<tr>
<td><strong>Non-Roman Catholic and Protestant Churches (under NCCP)</strong></td>
<td>No data</td>
<td>No data</td>
<td>-</td>
<td>No data</td>
<td>No data</td>
<td>No data</td>
</tr>
<tr>
<td><strong>Iglesia Filipina Independiente (Aglipay)</strong></td>
<td>1,414,431 (5.2%)</td>
<td>1,434,688 (3.9%)</td>
<td>-</td>
<td>1,590,208 (2.5%)</td>
<td>1,508,662 (1.9%)</td>
<td>916,639 (1%)</td>
</tr>
<tr>
<td><strong>Seventh Day Adventist</strong></td>
<td>No data</td>
<td>No data</td>
<td>-</td>
<td>384,423 (0.7%)</td>
<td>609,570 (0.8%)</td>
<td>681,216 (0.7%)</td>
</tr>
<tr>
<td><strong>Jehovah's Witness</strong></td>
<td>No data</td>
<td>No data</td>
<td>-</td>
<td>278,472 (0.5%)</td>
<td>380,059 (0.5%)</td>
<td>410,957 (0.4%)</td>
</tr>
<tr>
<td><strong>Buddhist</strong></td>
<td>39,631 (0.2%)</td>
<td>33,636 (0.1%)</td>
<td>-</td>
<td>No data</td>
<td>No data</td>
<td>No data</td>
</tr>
<tr>
<td><strong>Bible Baptist Church</strong></td>
<td>No data</td>
<td>No data</td>
<td>-</td>
<td>No data</td>
<td>No data</td>
<td>No data</td>
</tr>
</tbody>
</table>

¹⁴ Id.
¹⁵ Id.
¹⁷ Id.
¹⁸ Id.
Graph 1 below illustrates trends in the changing religious demography of Filipinos. Four categories were identified from the census data: (1) Roman Catholic, including Catholic Charismatic, (2) Christian non-Catholic, (3) Islam, and (4) Others, including values not reported. Groups that are Christian non-Catholics were counted as a separate category. This category includes census data of churches under the PCEC, NCCP, INC, Iglesia Filipina Independiente, Seventh Day Adventists, and Jehovah’s Witnesses.

<table>
<thead>
<tr>
<th>*United Church of Christ in the Philippines</th>
<th>No data</th>
<th>No data</th>
<th>-</th>
<th>1.5%</th>
<th>0.5%</th>
<th>0.5%</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>a) No data</td>
<td>b) No data</td>
<td>-</td>
<td>No data</td>
<td>No data</td>
<td>0.8%</td>
</tr>
<tr>
<td>Others/Not reported</td>
<td>2.1%</td>
<td>2.4%</td>
<td>-</td>
<td>4.1%</td>
<td>4.9%</td>
<td>4.2%</td>
</tr>
<tr>
<td></td>
<td>574,549</td>
<td>863,302</td>
<td>2,578,579</td>
<td>3,776,560</td>
<td>3,953,917</td>
<td></td>
</tr>
</tbody>
</table>

* "Mainline" Protestant churches or organizations
## PART ONE: LEGISLATIVE AND POLICY FRAMEWORK

### A. International Obligations

<table>
<thead>
<tr>
<th>International Document</th>
<th>Year of Signature</th>
<th>Year of Ratification / Accession</th>
<th>Reservations / Declarations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Universal Declaration of Human Rights</td>
<td></td>
<td>10 December 1948 (adoption)</td>
<td></td>
</tr>
<tr>
<td>International Covenant on Civil and Political Rights (ICCPR)</td>
<td>19 December 1966</td>
<td>23 October 1986</td>
<td></td>
</tr>
<tr>
<td>Optional Protocol to the ICCPR (on the petitions regime of the Human Rights Committee)</td>
<td>19 December 1966</td>
<td>22 August 1989</td>
<td></td>
</tr>
<tr>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</td>
<td>15 November 1993</td>
<td>5 July 1995</td>
<td></td>
</tr>
<tr>
<td>Rome Statute to the International Criminal Court</td>
<td>28 December 2000</td>
<td>30 August 2011</td>
<td></td>
</tr>
<tr>
<td>ASEAN Human Rights Declaration</td>
<td>18 November 2012 (adoption)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

22 *Id.*
There are conflicting Supreme Court decisions on the direct enforceability of the Universal Declaration of Human Rights. In Borovsky,\textsuperscript{28} and Mejoff,\textsuperscript{29} two separate cases in which undesirable aliens were deported but had to be detained because their state of nationality refused to accept them, the Supreme Court accepted the direct applicability of the UDHR. The aliens had filed for habeas corpus after two years in detention. The Court granted the petitions, citing the right to liberty in the 1948 UDHR. The Court enforced the right directly, citing the Incorporation Clause of the Constitution:\textsuperscript{30} “The Philippines... adopts the generally accepted principles on international law as part of the law of the Nation.”

However, in Ichong v. Hernandez,\textsuperscript{31} the Supreme Court took an opposite view. The case concerned the Retail Trade Nationalization Act, which bars aliens from retail business in the Philippines. It was challenged by a Chinese retailer citing the equal protection clause of the Constitution and the guarantee of equality in the 1948 UDHR. The Court rejected the claim holding \textit{inter alia} that alienage is a valid criterion of classification and that the UDHR is not a legally binding treaty anyway.

\section*{B. Domestic Laws and Policies}

The Philippine Constitution\textsuperscript{32} establishes the separation of church and state in the country, and guarantees freedom of thought, conscience, and religion. The relevant constitutional provisions are as follows:

Article II, Section 6. The separation of Church and State shall be inviolable.

Article III, Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

Besides these two constitutional provisions, others ensure non-establishment. For instance, Article VI, Section 5(2) provides that there would not be any allocation of seats for party-list representatives in the legislature on religious grounds. It states:

One-half of the seats allocated to the party-list representatives shall be filled, as provided by law, by selection or election from labour, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.

Furthermore, Article VI, Section 29(2) asserts:

No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.

Nonetheless, religion has a privileged status in the Philippines. Under Article VI, Section 28(3), for instance, religious institutions are exempt from taxation. The section states:
Charitable institutions, churches and personages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.

Furthermore, historically, the 1935 and 1973 Constitutions began their Preamble by “imploring the aid of Divine Providence.” Significantly, the 1987 Constitution replaces “Divine Providence” with “Almighty God.” The Supreme Court, in *Imbong v Ochoa* (where Catholic groups’ opposed the Reproductive Health Law requiring family planning counselling and expanding access to contraceptives), recognized deism among Filipinos as an “undisputed fact.” The Court said, “The undisputed fact is that our people generally believe in a deity, whatever they conceived Him to be, and to whom they call for guidance and enlightenment in crafting our fundamental law.”

Table 3

<table>
<thead>
<tr>
<th>1987 Constitution</th>
<th>1973</th>
<th>1935</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Religion Clause</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article III, Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.</td>
<td>Article IV, Section 8. No law shall be made respecting the establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.</td>
<td>Article III, Section 1 (7). No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.</td>
</tr>
</tbody>
</table>

33 *Imbong v Ochoa* [2014] GR No. 204819.
34 *Id.,* at 64.
35 *Constitution, 1987 (Philippines).*
36 *Constitution, 1973 (Philippines).*
37 *Constitution, 1935 (Philippines).*
The Omnibus Election Code of the Philippines\textsuperscript{38} (Election Code) reinforces the separation of church and state by expressly prohibiting the political participation of religious groups, banning their intervention in elections, prohibiting the raising and donating to campaign funds, and preventing ecclesiastics from coercing subordinates to vote for or against any candidate. The relevant provisions are as follows:

Article VIII, Section 61. No religious sect shall be registered as a political party and no political party which seeks to achieve its goal through violence shall be entitled to accreditation.

Article VI, Section 38. Conduct of elections. - [N]o political party, political group, political committee, civic, religious, professional, or other organization or organized group of whatever nature shall intervene …, directly or indirectly, … favourable to or against his campaign for election …

Article XI, Section 97. Prohibited raising of funds. - It shall be unlawful … for any person or organization, whether civic or religious, directly or indirectly, to solicit and/or accept from any candidate [any] contribution or donation in cash or in kind from the commencement of the election period up to and including election day; Provided, That normal and customary religious stipends, tithes, or collections on Sundays and/or other designated collection days are excluded from this prohibition.

Article XI, Section 104. Prohibited donations by candidates, treasurers of parties or their agents. - No candidate … shall … directly or indirectly, make any donation [for] the construction or repair of … churches or chapels … or any structure … for the use of any religious or civic organization: Provided, That normal and customary religious dues or contributions, such as religious stipends, tithes or collections on Sundays or other designated collection days … are excluded from the prohibition.

Article XXII, Section 261. Prohibited Acts. - The following shall be guilty of an election offense:

(d) Coercion of subordinates.

(1) Any … head, superior, or administrator of any religious organization … who coerces or intimidates or compels, or in any manner influence, directly or indirectly, any of his subordinates or members or parishioners or employees … to aid, campaign or vote for or against any candidate or any aspirant for the nomination or selection of candidates.

(2) Any … head, superior or administrator of any religious organization … who dismisses or threatens to dismiss, punishes or threatens to punish [by] excommunication, … for disobeying or not complying with any of the acts ordered by the former to aid, campaign or vote for or against any candidate, or any aspirant for the nomination or selection of candidates. (Emphases supplied.)

Significantly, there are political parties that front for religious groups, and now occupy seats in Congress as party-list representatives. A post-Marcos constitutional reform is the election to Congress of representatives elected not by geographical districts but through the party-list system. In the 2013 national elections, BUHAY (or “Life,” based on its complete name Buhay Hayaan Yumabong, or

\textsuperscript{38} Omnibus Election Code of the Philippines, Batas Pambansa Blg. 881, 1985 (Philippines).
“Let Life Flourish”) backed by Bro. Mike Velarde of El Shaddai, the largest Catholic charismatic group, received the highest number of votes among all the party-list groups. Other elected party-list groups backed by religious groups are CIBAC (Citizens’ Battle Against Corruption), linked to Bro. Eddie Villanueva of Jesus is Lord Movement; ACT-CIS (Anti-Crime and Terrorism Community Involvement and Support) and 1-SAGIP (Social Amelioration & Genuine Intervention on Poverty), which were both endorsed by the Iglesia ni Cristo.39

1. Freedom to adopt, change or renounce a religion or belief; and freedom from coercion

Article III, Section 5 of the Philippine Constitution states that “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.” Furthermore, the section states that “No religious test shall be required for the exercise of civil or political rights.”40

The laws do not define “blasphemy,” “deviant behaviour,” or “heretic.”

2. Right to manifest one’s religion or belief

The Philippine Constitution in Article III, Section 5 provides that “[t]he free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.” Furthermore, the Constitution guarantees that no religious test shall be required for the exercise of civil or political rights.41

a. Freedom to worship

As mentioned above, freedom to worship is constitutionally protected in the Philippines. Article III, Section 5 provides, inter alia, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. The Revised Penal Code42 however provides for crimes against religious worship. Section Four, Article 132, prohibits the interruption of religious worship:

The penalty of prision correccional in its minimum period shall be imposed upon any public officer or employee who shall prevent or disturb the ceremonies or manifestations of any religion. If the crime shall have been committed with violence or threats, the penalty shall be prision correccional in its medium and maximum periods.

Furthermore, Article 133 prohibits the offending of religious feelings. The penalty of arresto mayor in its maximum period to prision correccional in its minimum period shall be imposed upon anyone who, in a place devoted to religious worship or during the celebration of any religious ceremony shall perform acts notoriously offensive to the feelings of the faithful.

In the 2010 case of People of the Philippines v Carlos Celdran y Pamintuan,43 a celebrity travel guide was convicted by a lower court for violating Article 133. This occurred at the height of church opposition to the Reproductive Health bill. The accused, Carlos Celdran, staged a protest inside the Manila Cathedral where he, dressed as the Filipino national hero Jose Rizal, shouted that the church should stop meddling in government affairs while holding a sign referring to “Padre Damaso,” the villainous

40 Constitution, 1987 (Philippines).
Catholic priest in Rizal's novel, *Noli Me Tangere*. Monsignor Nestor Cerbo of the Manila Cathedral filed a complaint of the violation of Article 133. Celdran was sentenced to a prison term by the lower court. The case is currently on appeal.

The law also provides specific protection for privileged communication for clergy. Under the Rules of Evidence, priests cannot be compelled to disclose information received in the confidentiality of the confessional. Section 24 of Rule 130 of the Rules of Evidence states:

*Disqualification by reason of privileged communication.* — The following persons cannot testify as to matters learned in confidence in the following cases:

....

(d) A minister or priest cannot, without the consent of the person making the confession, be examined as to any confession made to or any advice given by him in his professional character in the course of discipline enjoined by the church to which the minister or priest belongs;....

Furthermore, the law protects religious individuals' right of access to justice (specifically, to testify as a witness in court). The Rules of Evidence, promulgated by the Supreme Court, expressly provide that religion cannot be a ground to disqualify a person from testifying as a witness. In the section governing "testimonial evidence," it states that the only qualifications required are that the witness be capable of perceiving and making known their perception to others, and that "religious … belief … shall not be a ground for disqualification."

b. Places of worship

There are no legal or policy restrictions on the building of and access to places of worship in the Philippines.

c. Religious symbols

There is no law regulating religious symbols, but Catholic icons are commonplace in government buildings. The Supreme Court also adopted what it called the “Centennial Prayer for the Courts.”

Almighty God, we stand in Your holy presence as our Supreme Judge. We humbly beseech You to bless and inspire us so that what we think, say and do will be in accordance with Your will. Enlighten our minds, strengthen our spirit, and fill our hearts with fraternal love, wisdom and understanding, so that we can be effective channels of truth, justice and peace. In our proceedings today, guide us in the path of righteousness for the fulfilment of Your greater glory. Amen.

This Prayer is supposed to be ecumenical and to be read by judges in open court at the start of each session day. It has not been challenged before any court because the prayer was issued by the Supreme Court itself under its rule-making powers under the Constitution.

d. Observance of holidays and days of rest

Several Christian holidays are recognized by law as national holidays, i.e. Maundy Thursday, Good Friday, All Saints’ Day, Christmas Day, and New


46 Art. VIII, Sec. 5.5, Constitution, 1987 (Philippines).
Year's Day. The same law also recognizes the Muslim Eid al-Fitr and Eid al-Adha as national holidays. The Eid'l Fitr was nationally observed by law as a holiday only in 2002 and the Eid'l Adha only in 2009. These are the only religious, non-Christian holidays in the official calendar of national holidays. Until then, the earliest legal recognition for the Eid'l Fitr was in 1964 but its observance was limited to Muslims. President Marcos likewise recognized in 1977 both the Eid'l Fitr and the Eid'l Adha, but again their observance was limited to the predominantly Muslim provinces in Mindanao and, outside these areas, to Muslim government personnel and, by presidential proclamation, to Muslim non-governmental personnel as well.

### e. Appointing clergy

The Philippine Constitution prohibits the making of laws respecting an establishment of religion. The ruling in *Pamil v Teleron* bars ecclesiastics from holding public office in municipal governments. The prohibition has been limited to a municipal office, there being no similar law banning ecclesiastics from seeking public offices higher than a municipal office. The new Administrative Code repealed it in 1987.

### f. Teaching and disseminating materials

There is no specific law regulating teaching and disseminating materials, including missionary activity. Pre-Arranged Employees Visa for Missionaries may be secured under Section 9(g) and Section 20 of the Commonwealth Act No. 613 or the Philippine Immigration Act of 1940 (PIA). The Bureau of Immigration requires non-immigrant foreign nationals holding the necessary visa under this category to show proof of a bona fide membership in an educational or religious organization in the Philippines. A foreign national is qualified to apply for a Pre-Arranged Employee Visa – Missionary once he/she has been endorsed by an educational or religious organization in the Philippines such as the CBCP or PCEC. Missionaries may have a one (1), two (2) or three (3) years initial period of validity on the Missionary Visa. Furthermore, visa may be extended for another one (1), two (2) or three (3) years for a total maximum period of ten (10) years.

In *Iglesia ni Cristo v Court of Appeals*, the Supreme Court upheld the power of the government to regulate television programmes on a religious channel, but struck down prior restraint. In *American Bible Society v City of Manila*, the Court held regulatory fees of the City of Manila do not apply to the dissemination of Bibles by missionaries.

### g. The right of parents to ensure the religious and moral education of their children

The Constitution guarantees the “right of spouses to found a family in accordance with their religious

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47 Republic Act 9492 (25 July 2007) (“An act rationalizing the celebration of national holidays”).
48 Republic Act 9177 (July 22, 2002).
49 Republic Act 9849 (July 27, 2009).
50 Presidential Decree No. 195 (1964).
52 Art. 170, Code of Muslim Personal Laws, supra n. 51.
53 Art. 172(1), Code of Muslim Personal Laws, supra n. 51.
54 Art. 172(2), Code of Muslim Personal Laws, supra n. 51.
56 *Pamil v Teleron* [1978], G.R. No. 34854.
59 *Iglesia ni Cristo v Court of Appeals* [1996], G.R. No. 119673.
60 *American Bible Society v City of Manila* [1957], G.R. No. L-9637.
Under the Civil Code, the father and mother jointly exercise parental authority over their unemancipated legitimate children. They have the legal duty to “give[] moral and civil training” to their child, though significantly the law does not refer to religious instruction. In contrast, the Child and Youth Welfare Code expressly refers to religion when it provides that the parents shall “extend to [the child] the benefits of moral guidance, self-discipline and religious instruction.”

Moreover, the Constitution gives parents the option to allow religious instruction in public primary and secondary schools within regular class hours provided it does not entail costs for the state.

The Constitution also acknowledges the role of private schools, which are predominantly religious in nature. According to Article XIV, Section 4(1) of the Philippine Constitution, “[t]he State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.” The Constitution also exempts religious schools from national ownership requirements. Finally, the Constitution exempts religious schools from taxes. This is guaranteed under the Philippine Constitution, Article VI, Section 28(3), which states:

Charitable institutions, churches and personages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.

Madrasahs have the option of registering with the National Commission on Muslim Filipinos (NCMF) or Department of Education, and receive funding for teachers and facility improvements. The Department of Education (DepEd) has 459 public schools nationwide implementing Islamic religious education. This number does not include the Autonomous Region in Muslim Mindanao (ARMM) with its own regional DepEd which is technically independent of the national DepEd. The Philippine government, through the DepEd, has developed the Road Map for Upgrading Muslim Basic Education, a comprehensive program for the educational development of Filipino Muslims.

The question of the appropriate role of the state in educating the young and its potential conflict with parental rights was discussed in *Imbong v Ochoa*. There, the Supreme Court upheld Section 14 of the Reproductive Health Law mandating the teaching of

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61 Art. XV, Sec. 3.1 Constitution (1987), Philippines.
63 Id., Art. 356, para. 3.
65 Id.
66 Id.
70 Supra, at n. 33.
Age- and Development-Appropriate Reproductive Health Education.

It is also the inherent right of the State to act as parens patriae to aid parents in the moral development of the youth. Indeed, the Constitution makes mention of the importance of developing the youth and their important role in nation building. Considering that Section 14 provides not only for the age-appropriate-reproductive health education, but also for values formation; the development of knowledge and skills in self-protection against discrimination; sexual abuse and violence against women and children and other forms of gender based violence and teen pregnancy; physical, social and emotional changes in adolescents; women's rights and children's rights; responsible teenage behaviour; gender and development; and responsible parenthood, and that Rule 10, Section 11.01 of the RH-IRR and Section 4(t) of the RH Law itself provides for the teaching of responsible teenage behaviour, gender sensitivity and physical and emotional changes among adolescents - the Court finds that the legal mandate provided under the assailed provision supplements, rather than supplants, the rights and duties of the parents in the moral development of their children.\textsuperscript{71}

\textbf{h. Registration}

Registration as a religious institution in the Security and Exchange Commission (SEC) and Bureau of Internal Revenue for a tax-exempt status is required. Requirements refer to Sections 109-116 of the Corporation Code of the Philippines, and an affidavit of affirmation or verification by the chief priest, rabbi, minister or presiding elder is required by the SEC. The SEC revokes the certificate of registration of a church as a religious corporation if it fails to file the reportorial requirements and pay the penalties. The Roman Catholic Church is not SEC registered.

Note too that the Corporation Code codifies into law the Catholic practice of enabling the parish priest to act as a corporation (“corporation sole”), though the language is cast ecumenically to so enable the ecclesiastics of other religions as well. Section 116 of the Corporation Code of the Philippines states:

Any religious society or religious order, or any diocese, synod, or district organization of any religious denomination, sect or church, unless forbidden by the constitution, rules, regulations, or discipline of the religious denomination, sect or church of which it is a part, or by competent authority, may, upon written consent and/or by an affirmative vote at a meeting called for the purpose of at least two-thirds (2/3) of its membership, incorporate for the administration of its temporalities or for the management of its affairs, properties and estate by filing with the Securities and Exchange Commission, articles of incorporation verified by the affidavit of the presiding elder, secretary, or clerk or other member of such religious society or religious order, or diocese, synod, or district organization of the religious denomination, sect or church, setting forth the following:

That the religious society or religious order, or diocese, synod, or district organization is a religious organization of a religious denomination, sect or church;

That at least two-thirds (2/3) of its membership have given their written consent or have voted to incorporate, at a duly convened meeting of the body;

\textsuperscript{71} At p. 88.
That the incorporation of the religious society or religious order, or diocese, synod, or district organization desiring to incorporate is not forbidden by competent authority or by the constitution, rules, regulations or discipline of the religious denomination, sect, or church of which it forms a part;

That the religious society or religious order, or diocese, synod, or district organization desires to incorporate for the administration of its affairs, properties and estate;

The place where the principal office of the corporation is to be established and located, which place must be within the Philippines; and

The names, nationalities, and residences of the trustees elected by the religious society or religious order, or the diocese, synod, or district organization to serve for the first year or such other period as may be prescribed by the laws of the religious society or religious order, or of the diocese, synod, or district organization, the board of trustees to be not less than five (5) nor more than fifteen (15).72

i. Communicate with individuals and communities on religious matters at the national and international level

Generally speaking, there are no broad restrictions on religious individuals and groups to communicate with other individual and communities on religious matters at the national and international level. However, restriction of religious speech may be valid under certain circumstances. In Iglesia ni Cristo v Court of Appeals,73 the Supreme Court held that a television program used by the INC to criticize other faiths may be censured as speech. The Court stated that:

As great as this liberty may be, religious freedom, like all other rights guaranteed in the Constitution, can be enjoyed only with a proper regard for the rights of others. It is error to think that the mere invocation of religious freedom will stalemate the State and render it impotent in protecting the general welfare. The inherent police power can be exercised to prevent religious practices inimical to society.

Furthermore, the Movie and Television Review and Classification Board (MTRCB), under the amended 2004 Implementing Rules and Regulations,74 has the authority to classify a movie as not for public exhibition (“X” or “X-rated”) if “the film clearly constitutes an attack against any race, creed, or religion (Chapter IV, Section 1.F).” The MTRCB may also disapprove television airing of “work [that] clearly constitutes an attack against any race, creed or religion.”

j. Establish and maintain charitable and humanitarian institutions/solicit and receive funding

There are no restrictions on religious individuals and groups in establishing and maintaining charitable and humanitarian institutions, or to solicit and receive funding. The Constitution allows state subsidy for chaplains in military, prisons, orphanages, and leprosariums.75 It also grants tax exemption for charitable institutions and land and buildings used for religious or charitable purposes.76

73 Supra, n. 59.
75 Art. VI, Sec. 29.2, Constitution, 1987 (Philippines).
76 Art. VI, Sec. 28.3, Constitution, 1987 (Philippines).
k. Conscientious objection

Two leading cases address the principle of conscientious objection in the Philippines: *Gerona v Secretary of Education*\(^{77}\) and *Ebranilag v Superintendent*\(^{78}\), both involving children belonging to the Jehovah’s Witnesses and who refused to take part in the flag ceremony required in all Philippine schools.

In *Gerona v Secretary of Education*, the Supreme Court held that the Jehovah’s Witnesses may be compelled to participate in the flag ceremony because the flag is not a religious symbol, contrary to what their religion held. Moreover, the state had a valid interest in fostering nationalism, and no one may be exempted from civic obligations on the basis of religion. It took the Supreme Court 34 years to reverse this ruling in *Ebranilag v Superintendent*, holding that the fears that underlay *Gerona*—that exempting a small portion of the school population from saluting the flag, singing the national anthem and reciting the patriotic pledge would produce a nation “untaught and uninculcated in and unimbued with reverence for the flag, patriotism, love of country and admiration for national heroes”—had not come to pass. Moreover, in *Ebranilag*, the Court refused to engage in the interpretation of a religion’s scripture.

It should also be noted that more recently, in *Imbong v Ochoa*,\(^ {79}\) the Court upheld the petitioners’ plea for “health service providers” who have conscientious objections to contraception, and struck down the health service provider’s duty to refer patients to contraceptive-friendly doctors.

The Court is of the view that the obligation to refer imposed by the RH Law violates the religious belief and conviction of a conscientious objector. Once the medical practitioner, against his will, refers a patient seeking information on modern reproductive health products, services, procedures and methods, his conscience is immediately burdened as he has been compelled to perform an act against his beliefs. As Commissioner Joaquin A. Bernas [a Jesuit priest] has written, “at the basis of the free exercise clause is the respect for the inviolability of the human conscience.”\(^ {80}\)

The Court analogizes the right of conscientious objection regarding contraceptive services, with the “right to be silent” regarding free speech.

Moreover, the guarantee of religious freedom is necessarily intertwined with the right to free speech, it being an externalization of one’s thought and conscience. This in turn includes the right to be silent. … The Bill of Rights guarantees the liberty of the individual to utter what is in his mind and the liberty not to utter what is not in his mind. While the RH Law seeks to provide freedom of choice through informed consent, freedom of choice guarantees the liberty of the religious conscience and prohibits any degree of compulsion or burden, whether direct or indirect, in the practice of one’s religion.

In case of conflict between the religious beliefs and moral convictions of individuals, on one hand, and the interest of the State, on the other, to provide access and information on reproductive health … to enable the people to determine the timing, number and spacing of the birth of their children, the Court is of the strong view that the religious freedom of health providers, whether public or private, should be accorded primacy.

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\(^{77}\) *Gerona v Secretary of Education* [1959] G.R. No. L-13954.


\(^{79}\) *Supra*, at n. 33, pp. 72-74 and pp. 77-78.

\(^{80}\) At p. 72.
The Court further extends this position to all hospitals, thus enabling institutions, that is to say, non-natural persons, to invoke the conscientious objector principle. In conclusion, the Court applied heightened standards of judicial review and held that the government had not shown that the requirement is the least intrusive means of achieving a legitimate state objective:

[G]ranting that a compelling interest exists to justify the infringement of the conscientious objector’s religious freedom, the [government has] failed to demonstrate “the gravest abuses, endangering paramount interests” which could limit or override a person’s fundamental right to religious freedom. Also, the [government has] not … show[n] that the means it takes to achieve its legitimate state objective is the least intrusive means. … Suffice it to say, a person who is forced to perform an act in utter reluctance deserves the protection of the Court as the last vanguard of constitutional freedoms.

3. Freedom from intolerance and discrimination

There is no national law condoning intolerance and discrimination. On the other hand, the principle of “social justice,” described as the duty of the state to “reduce social, economic, and political inequalities” justifies what in other jurisdictions would be considered affirmative action for vulnerable or historically disadvantaged groups.

At the moment, a bill is pending before the Senate prohibiting profiling as well as discrimination against persons on account of ethnic or racial origin and/or religious affiliation or belief. The Catholic clergy has opposed the Anti-Ethnic or Racial Profiling and Discrimination bill for promoting homosexuality. The lawyer of the Catholic Bishops’ Conference of the Philippines (CBCP) stated that this bill extends the protection against hate speech to lesbians, gays, bisexuals and transgendered persons.

There will be new crimes—hate speech and hate crimes. What’s this? If you utter words that are hurtful to the feelings of lesbians, gays, bisexuals and transgenders, that would already be hate crime and hate speech. Besides, you can be sued. What kind of proposed law is this?

She argued that this showed “intolerance” of the Catholic objection to gay rights, and criminalizes them for their beliefs. “If [the government] refuse[s] to tolerate practice, persons or beliefs on religious grounds, that’s a crime of religious intolerance.” In effect, she argued that the Catholic condemnation of gay rights is part of their free exercise rights that are being criminalized by the bill. “Government should not meddle in religious doctrine and faith: Religious witnessing (viewed in the bill as “intolerance”) is also a form of ethical, moral, ideological and spiritual expression, protected by the Constitution.”

81 At p 74.
82 At p. 77-8.
83 Art. XIII, Sec. 1, Constitution, 1987 (Philippines).
84 Senate Bill 2814 (Anti-Ethnic or Racial Profiling and Discrimination Act of 2011).
87 Id.
88 Id.
4. **Right of vulnerable groups to freedom of religion and belief**

*a. Women*

The Magna Carta of Women\(^9\) includes protection of the right of women to freedom of religion and belief. The Magna Carta expressly refers to the Convention on the Elimination of Discrimination Against Women. It guarantees the right of women to “all human rights and fundamental freedoms ... in the economic, social, political, cultural, and other fields without distinction or discrimination on account of ... religion ....”\(^{90}\)

*i. Religion-based rules on marriage and gender discrimination*

The laws regulating marriage and gender are shaped not just by religious but likewise by various sociological and cultural factors. However, there are provisions of Philippine law that track very closely the position of either the Catholic majority, or the Catholic clergy, or the best organized if most conservative laity.

For instance, divorce is not allowed under the 1987 Family Code,\(^{91}\) reflecting the Catholic position on the sanctity of marriage. There have been attempts to legalize divorce in the Philippines, and in one recent bill (House Bill No. 1799) filed in 2013, the sponsor cited the gender-bias embedded in the no-divorce rule in the Philippines. The Explanatory Note recognized the high prevalence of marital violence against women in the Philippines, for whom, “marital relations facilitate the commission of violence and perpetuate their oppression.”\(^{92}\) The Note argued that existing laws on separation and termination of marriage are not sufficient to protect human rights.

The Family Code allows only legal separation, which is “relative divorce” or “separation of bed and board.” The marriage bonds remain in full force although there is a suspension of common marital life. The separated spouses may not re-marry.\(^{93}\) The Family Code also allows the so-called Article 36 “declaration of nullity” on the basis that one spouse was “psychologically incapacitated to comply with the essential marital obligations of marriage.”\(^{94}\) The Supreme Court has recognized that this was a compromise with the Catholic objection to the legalization of divorce.\(^{95}\)

\[\text{Considering the Christian traditional concept of marriage of the Filipino people as a permanent, inviolable, indissoluble social institution upon which the family and society are founded, and also realizing the strong opposition that any provision on absolute divorce would encounter from the Catholic Church and the Catholic sector of our citizenry to whom the great majority of our people belong, the [drafters of the Family Code] did not pursue the idea of absolute divorce and instead opted for an action for judicial declaration of invalidity of marriage based on grounds available in the Canon Law. It was thought that such an action would not only be an acceptable alternative to divorce}\]

\(^{92}\) House Bill No. 1799 (An Act Introducing Divorce in the Philippines, Amending for the Purpose Title II, Articles 55 to 66 Inclusive and Article 26 of Executive Order No. 209, as Amended, Otherwise Known as the Family Code of the Philippines, and Repealing Article 36 of the Same Code, and for Other Purposes).

\(^{93}\) E. Aguiling-Pangalangan, Marriage and Unmarried Cohabitation 118-120 (University of the Philippines Law Center, 2014).

\(^{94}\) Art. 36, Family Code of the Philippines, supra n. 91. See also E.A. Pangalangan, id, at 93.


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\(^{90}\) Id., Sec. 2.

but would also solve the nagging problem of church annulments of marriages on grounds not recognized by the civil law of the State.

Moreover, the judge, in interpreting the provision on a case-to-case basis, must be guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provisions was taken from Canon Law.96 (Emphases supplied.)

The Supreme Court has repeatedly recognized that this clause was derived from the “New Code of Canon Law,” and the Court will “give great respect” to the interpretations “given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines,” because the aim of the Family Code was “to harmonize our civil laws with the religious faith of our people.”

[T]he following guidelines in the interpretation and application of Art. 36 of the Family Code are hereby handed down for the guidance of the bench and the bar:

....

(7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983.

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. Ideally — subject to our law on evidence — what is decreed as canonically invalid should also be decreed civilly void.

This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church — while remaining independent, separate and apart from each other — shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.97 (Emphases supplied.)

In another case, the Supreme Court likewise held that Catholic interpretations “although not binding on the civil courts [shall nonetheless have] persuasive effect.”

The [drafters of the Family Code] would like the judge to interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.98


However, in a subsequent case that purported merely to apply this ruling, the Court gave ecclesiastical tribunals more than just “persuasive effect” and held them to bind civil courts.99

The Court of Appeals clearly erred when it failed to take into consideration the fact that the marriage of the parties was annulled by the Catholic Church. ….

Evidently, the conclusion of psychological incapacity was arrived at not only by the trial court, but also by canonical bodies. Yet, we must clarify the proper import of the Church rulings annulling the marriage in this case. They hold sway since they are drawn from a similar recognition, as the trial court, of the veracity of petitioner’s allegations. [Otherwise], the rulings of the Catholic Church on this matter would have diminished persuasive value.100 (Emphasis supplied.)

Moreover, the grounds for legal separation include “physical violence … to compel [a spouse] to change religious or political affiliation.” The Family Code provides that legal separation may be secured on the basis of:

Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;

Physical violence or moral pressure to compel the petitioner to change religious or political affiliation; ….101

The Department of Social Welfare and Development has confirmed that women are typically the victims of such abuse.102 Authoritative commentators have stated that when the purpose of the abuse is to compel a change in “religious or political beliefs,” one act of violence or pressure will suffice as a ground for legal separation. Such acts of violence are proscribed under both the Philippine Magna Carta of Women103 which prohibits “discrimination against women in all its forms” and the Anti-Violence Against Women and Their Children Act of 2004.104

b. Children

The child’s religious freedom is secured by the Constitution against state interference but not entirely from parental authority. The religious rights under the Bill of Rights are guaranteed to all persons, including children. The Child and Youth Welfare Code of the Philippines also provides that all children shall be entitled to the “rights of the child” without discrimination on the basis of religion, among other criteria.105

On the other hand, the Constitution guarantees the “right of spouses to found a family in accordance with their religious convictions.”106 The Civil Code, while stating that a minor’s capacity to act may not be limited on the basis of religious belief, allows limitations on account of age.107 It further states that the father and mother shall jointly exercise parental authority over their unemancipated legitimate children.108 Indeed, the Child and Youth Welfare Code more explicitly refers to religion and provides that the parents shall “extend to [the child] the benefits of moral guidance, self-discipline and

101 Art. 55, Family Code of the Philippines, supra n. 91.
102 E. A. Pangalangan, supra, n. 93, citing the Department of Social Welfare and Development.
103 Republic Act No. 9710 (2010).
105 Art. 3, Child and Youth Welfare Code, supra n. 64.
106 Art. XV, Sec. 3.1, Constitution, 1987 (Philippines).
107 Art. 39, Civil Code of the Philippines, supra, n. 62.
108 Art. 311, Civil Code of the Philippines, supra, n. 62.
religious instruction.”

c. Migrant workers

This is not applicable in Philippine milieu. The Philippines is a “sending state,” and does not host foreign migrant workers.

d. Persons deprived of their liberty

No law specifically governs the right of persons deprived of their liberty to religious freedom, but the Constitution provides guarantees to persons otherwise constrained from performing religious rituals due to lack of access to religious “officials,” e.g., soldiers in the field, prisoners, orphans and lepers. The provision on the use of public funds states:

No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.

109 Art. 46.2, Child and Youth Welfare Code, supra n. 64.

110 Art. VI, Sec. 29(2), Constitution, 1987 (Philippines).

are governed by the Philippine Immigration Act of 1940 and the administrative issuances of the Department of Justice.

SECTION 3. Basic Principles. - This procedure shall be governed by the following basic principles:

... 

c. Non-deprivation of refugee or stateless status, and non-discrimination in the application of the Conventions, on account of race, religion, political opinion, or country of origin.

d. An applicant and/or his or her dependents during the pendency of his or her application, or a refugee shall not be expelled or returned to a country where there are valid reasons to believe that his or her life or freedom would be threatened on account of his or her race, religion, nationality, membership in a particular social group or political opinion.

f. Minorities

All religious minorities are guaranteed the right to worship under the Free Exercise clause and state neutrality under the Establishment Clause. At the same time, the Muslim religious minority in the southern island of Mindanao has been granted regional autonomy under the 1987 Constitution and, in 2012, the Philippine Government signed a peace agreement with the Moro Islamic Liberation Front (MILF) which was embodied in a Framework Agreement to grant autonomy to what it called the Bangsamoro. This is sanctioned under the Constitution under Article X, Section 1, which states:

111 Establishing the Refugees and Stateless Status Determination Procedure, Department of Justice Circular No. 058 (18 October 2012).

e. Refugees

The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.

Thus, Section 15 of the same article provides:

There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

The legal and political arrangements for the autonomous regions are set out in the sections of the same article below:

Section 16. The President shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed.

Section 17. All powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the National Government.

Section 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multi-sectoral bodies. The organic act shall define the basic structure of government for the region consisting of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family, and property law jurisdiction consistent with the provisions of this Constitution and national laws. The creation of the autonomous region shall be effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favourably in such plebiscite shall be included in the autonomous region.

Section 19. The first Congress elected under this Constitution shall, within eighteen months from the time of organization of both Houses, pass the organic acts for the autonomous regions in Muslim Mindanao and the Cordilleras.

Section 20. Within its territorial jurisdiction and subject to the provisions of this Constitution and national laws, the organic act of autonomous regions shall provide for legislative powers over:

1. Administrative organization;
2. Creation of sources of revenues;
3. Ancestral domain and natural resources;
4. Personal, family, and property relations;
5. Regional urban and rural planning development;
6. Economic, social, and tourism development;
7. Educational policies;
8. Preservation and development of the cultural heritage; and
(9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region.

Section 21. The preservation of peace and order within the regions shall be the responsibility of the local police agencies which shall be organized, maintained, supervised, and utilized in accordance with applicable laws. The defence and security of the regions shall be the responsibility of the National Government.

The Congress implemented the autonomy clause in the Constitution through the 1989 Organic Act for Muslim Mindanao. As required by the Constitution, the Organic Act was submitted to a plebiscite in November 1989, in which only four provinces voted to join the Autonomous Region of Muslim Mindanao (ARMM).

After the 1976 Tripoli Agreement signed by the Marcos government with the Moro National Liberation Front (MNLF), the first of many peace agreements with Muslim rebels, Marcos issued a presidential decree (using his legislative powers then) toward “recognizing the system of Filipino Muslim laws [and] codifying Muslim personal laws.”112

Presidential Decree 1083, the Code of Muslim Personal Laws (CMPL) gives “the full sanction of the State” to the “legal system of the Muslims in the Philippines” and “codifies Muslim personal laws” as “part of the law of the land.”113 In case of conflict between the CMPL and national laws, the CMPL prevails.114 In case of “conflict in Islamic schools of law,” what prevails is the rule that is “in consonance with the Constitution …, the [CMPL], public order, public policy and public interest.”115

The CMPL is applicable only to Muslims116 and, more specifically, its marriage provisions apply when “both parties are Muslims, or wherein only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or this Code in any part of the Philippines.”117 Otherwise, the national laws on marriage, namely, the Philippine Civil Code118 and the 1987 Family Code,119 shall apply.120

The CMPL exempts Filipino Muslims from the national laws on marriage that, in turn, reflect Roman Catholic doctrine. The Philippines has adopted the Catholic position on the sanctity and indissolubility of marriage, and accordingly there is no divorce in the Philippines, the only state in the world today apart from the Holy See that does not grant divorce decrees.121 Bigamous marriages are void,122 and bigamy is a crime.123 However, “Muslim personal law” pertaining to “all laws relating to personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations between spouses”124 carves out exceptions for Muslims.

Unlike the Civil Code and the Family Code which allow only legal separation, the CMPL allows the “formal dissolution of the marriage bond”125 and recognizes divorce as a right of both husband and wife.126 The Family Code itself contains a limited exception for “marriages among Muslims or among members of [] ethnic cultural communities,” namely, from the requirement of a marriage license “provided they are solemnized in

116 Art. 3, Code of Muslim Personal Laws, supra n. 51.
117 Art. 13(1), Code of Muslim Personal Laws, supra n. 51.
119 Family Code of the Philippines, supra n. 91.
120 Art. 13(2), Code of Muslim Personal Laws, supra n. 51.
121 See E.A. Pangalangan, supra n. 93; see also Family Code of the Philippines, supra n. 91.
122 Art. 35, Family Code of the Philippines, supra n. 91.
123 Art. 349, Revised Penal Code of the Philippines, supra n. 42.
124 Art. 7(i), Code of Muslim Personal Laws, supra n. 51.
125 Art. 45, Code of Muslim Personal Laws. See Chapter 3 (Divorce, Talaq), Art.s 45-57, supra n. 51.
126 Art. 34, Code of Muslim Personal Laws, supra n. 51.
accordance with their customs, rites or practices.”

Finally, the CMPL deviates from the national and international laws for the protection of minors. The Family Code sets the minimum age of consent for marriage at 18 for both men and women.128 The ICCPR guarantees that “[n]o marriage shall be entered into without the free and full consent of the intending spouses.”129 The CEDAW guarantees the right “freely to choose a spouse and to enter into marriage only with [one’s] free and full consent.” Yet the CMPL provides for a lower age of marriageability for both men and women, and weakens, if it does not eviscerate, the protection against arranged marriages of child-brides.

The CMPL sets the minimum marriageable age at 15 years old for men and, significantly for Muslim women, the onset of puberty, which is statutorily presumed to be attained upon reaching the age of 15. Moreover, a female “who though less than 15 but not below 12 years of age, has attained puberty,” may be allowed to marry upon petition by a guardian.132 The CMPL even allows “marriage … by a minor below the prescribed ages” provided it has been arranged by a guardian other than the father or grandfather of the child-bride, subject only to the qualification that the union “shall be regarded [only] as betrothal” and “may be annulled upon the petition of either party within four years after attaining the age of puberty, provided no voluntary cohabitation has taken place.” This clause is significant in that it contemplates that a mere “betrothal” includes the possibility of “voluntary cohabitation,” and this, by a woman even below the age of 12.

Yet under Philippine law, a woman below that age is statutorily presumed to be incapable of giving genuine consent to sexual relations. The Revised Penal Code considers sexual relations with a woman below the age of 12 as “statutory rape” even if it is consensual.134 The irony then is that the marriage of the child-bride is considered valid under the CMPL but, where the child-bride is younger than 12, the consummation of that marriage remains a crime under the Revised Penal Code. The reason is that the choice of law clause under the CMPL provides that the CMPL shall prevail over national law “in case of conflict between any [of their] provisions.” Accordingly, the CMPL prevails over the Family Code when they clash as regards the age of marriageability. However, the CMPL does not have any provision that negates the Revised Penal Code punishment of statutory rape.

In contrast, the CMPL expressly exempts marriages under the CMPL from the Revised Penal Code punishment of bigamy. The CMPL allows polygamy for men, citing the “rule of Islamic law permitting a Muslim to have more than one wife [provided] he can deal with them with equal companionship and just treatment as enjoined by Islamic law and only in exceptional cases.”

Finally, this likewise demonstrates gender-based discriminatory treatment, because it allows multiple marriages for men but not for women. The requirements for divorce provide another example of asymmetric standards for men and women, e.g., the husband has the power to “divorce by talaq,” but his wife may effect a talaq only when her husband delegates it to her “by tafwid.”

The CMPL establishes three main institutions – a Shari’a court system; the Agama Arbitration Council for amicable settlement of cases; and the mufti, or Islamic Jurisconsultant position in the Supreme Court. It establishes a three-tiered system of courts – Shari’a Circuit Courts (SCC) at the first instance level; Shari’a District Courts (SDC) to handle more serious cases and appeals from the

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127 Art. 33, Family Code of the Philippines, supra n. 91.
128 Art. 5, Family Code of the Philippines, supra n. 91.
129 Art. 23(3), International Covenant on Civil and Political Rights.
130 Art. 16(1.b), Convention on the Elimination of Discrimination Against Women.
131 Art. 16(1), Code of Muslim Personal Laws, supra n. 51.
132 Art. 16(2), Code of Muslim Personal Laws, supra n. 51.
133 Art. 16(3), Code of Muslim Personal Laws, supra n. 51.
134 Art. 335(3), Revised Penal Code of the Philippines, supra n. 42.
135 Art. 3(1), Code of Muslim Personal Laws, supra n. 51.
136 Art. 180, Code of Muslim Personal Laws, supra n. 51.
137 Art. 27, Code of Muslim Personal Laws, supra n. 51.
138 Id.
139 Art. 46, Code of Muslim Personal Laws, supra n. 51.
140 Art. 51, Code of Muslim Personal Laws, supra n. 51.
Shari’a Circuit Courts; and, at the apex, the Supreme Court of the Republic of the Philippines for appeals from the SDCs. Hence, the Shari’a court system is not independent but part of the judicial branch of the Philippine government. The Shari’a courts are located only in areas with a high concentration of Muslims. Article 147 establishes five District Courts, covering Muslim majority areas of Mindanao. The SDCs rank equally with Regional Trial Courts in the regular court system. District Courts hear cases on custody, guardianship, legitimacy of children, paternity and filiation, as well as inheritance and customary contracts between Muslims.

Judges in the District Courts are required to have the same qualifications as their peers in the regular court system, as well as passing the Shari’a bar. Circuit Court judges, however, are only required to have a high school education and to have passed the Shari’a bar. Shari’a judges are appointed by the President. Salaries and conditions are set at the same level as Municipal and Regional Trial Court judges in the regular system.

Passage of the Shari’a bar examination is a pre-condition for lawyers appearing before the Shari’a courts. Applicants eligible to sit for the Shari’a bar must be lawyers admitted to the Integrated Bar of the Philippines who wish to practice in the Shari’a courts; non-lawyers who have passed a 45-day course on Islamic Law given by the National Commission on Muslim Filipinos (NCMF); or Muslim scholars with a degree in Islamic Law and Jurisprudence from abroad. A survey undertaken of Shari’a lawyers in the country indicated that over 80 per cent received their training through the NCMF course.141

In 2012, the Philippine Government signed a peace agreement—the Bangsamoro Framework Agreement to promote peace in Mindanao142—with the Moro Islamic Liberation Front (MILF), an armed Islamic secessionist movement, to grant autonomy to the Bangsamoro, allowing for the expansion of the ARMM and providing for power- and revenue sharing.

Besides the need to accommodate Muslim minorities, there have also been incidences where the government has had to negotiate religious norms that conflict with national law. For instance, see the discussion on the government’s response to a Moonies mass wedding in 1996 (see Part II.D).

C. Redress Mechanisms and Interpretation of Policies

1. Judiciary

Below are landmark cases addressing the principle of the separation of church and state under the Constitution, more specifically, the principle of free exercise and the non-establishment of religion. Note that in Philippine constitutional law, any violation of either the free exercise or the non-establishment clauses triggers the application of heightened standards of judicial review, which shift upon the state the burden of showing a “compelling state interest” to justify the police power measure and a narrowly tailored measure to advance that interest without unnecessarily burdening the religious rights.


### CONSTITUTION, ARTICLE VI, SECTION 29 (2). “NO PUBLIC MONEY…”

**Aglipay v Ruiz**[^143]

The postal service issued stamps commemorating the 33rd International Eucharistic Congress in Manila, but showing the image of a chalice. Faced with complaints on establishment violations, the stamp was redesigned to remove the chalice, replace it with a map of the Philippines as the central image, but still retaining text commemorating the Eucharistic Congress. The Supreme Court found no establishment violations, and recognized its practical purpose (namely, promotion of tourism) and the secular image (namely, the map of the Philippines) as the centrepiece of the stamp. It is significant that there was a market for the sale of the “Catholic” stamp only because the Philippines has a big Catholic population. The market-based argument for the issuance of the stamp actually ratifies the majoritarian power of the Catholic church.

**Garces v Estenzo**[^144]

The Supreme Court held that the statue of the town’s patron saint belongs to the municipal government and not to the parish priest. The statue was purchased with funds raised for the annual fiesta by the town mayor from private donations. The funds thus became public in character, which was then used to purchase a religious icon. The Supreme Court found no establishment problem, because the image is used for the town fiesta which, though traditionally commemorating a saint, has become more of a socio-cultural and tourist event. A religious practice was embraced by the majority and “secularized” as part of its culture, and, parallel to **Aglipay**, supra, the government’s entanglement in a religious practice was ratified by appealing to the fact that Catholicism is the majority religion.

### FREE EXERCISE CLAUSE

**American Bible Soc. v City of Manila**[^145]

Regulatory fees of the City of Manila do not apply to the dissemination of Bibles by missionaries. The police power of taxation cannot be used to prohibit or limit a person’s free exercise of religion. The distribution of Bibles and proselytizing are considered exercises of religion.

**Gerona v Sec of Education**[^146]

Jehovah’s Witnesses refused to allow their children to participate in their schools’ flag ceremonies because their religion forbade them from worshiping religious symbols. The Supreme Court held that the flag is not a religious symbol, and the Jehovah’s Witnesses may be compelled to salute the flag because the ceremony is intended for the secular purpose of promoting nationalism.

**Ebranilag v Division**[^147]

The Court reversed **Gerona**, and held it may not engage in the interpretation of a religion’s scripture and teaching because that is tantamount to excessive entanglement. The Court held that the Jehovah’s Witnesses are entitled to the free exercise right to be exempted from the flag ceremonies. It is significant that it took the Court all of 34 years to reverse **Gerona**, a case in which a Roman Catholic justice interpreted for the Jehovah’s Witnesses their own bible.

[^146]: Supra, at n. 77.
[^147]: Supra, at n. 78.
Anucension v NLU\textsuperscript{148} In a case involving labour unions, members of the Iglesia ni Cristo were exempted from the effects of a “closed shop” clause in the collective bargaining agreement. They invoked a passage of their scripture that they may not join organizations that included non-believers among their members. The Court held this to be within their free exercise rights. As stated earlier, the Iglesia ni Cristo is a small but politically powerful religion. Their compulsory non-membership in unions is considered a draw for employers.

Pamil v Teleron\textsuperscript{149} In 1971, a priest was elected mayor of a municipality, but was disqualified under the old American-era Administrative Code of 1917 which banned ecclesiastics from holding public office in municipal governments. Despite the fact the Constitution states that “[n]o religious test shall be required for the exercise of civil or political rights,” the Court could not muster enough votes to strike down the 1917 provision as unconstitutional, the justices citing the historical origins of the separation clause and the threats posed by religious participation in secular politics.

German v Barangan\textsuperscript{150} In this Marcos-era decision, anti-Marcos protesters wanted to hear mass at the church adjacent to the presidential palace, but were denied access by the police. The Court upheld the denial, saying this was political protest disguised as religious practice. Applying the test of good faith, the Court held that the protesters betrayed their true intentions by wearing the trademark yellow shirts of the anti-Marcos movement when they purported to worship in church.

CONSCIENTIOUS OBJECTOR

Imbong v Ochoa\textsuperscript{151} The Reproductive Health Law requires the state to include contraceptive access and education in the state’s health programs. It contains a “conscientious objector” clause which enabled conservative Roman Catholic doctors to refuse to give such “health care services and information.” However, it also imposes the duty to “refer the [patient] to another health care service provider within the same facility or one which is conveniently accessible.” The RH law also provides that the “conscientious objector” still has the duty to provide “appropriate initial medical treatment and support in emergency and serious cases.”

The Court upheld the RH Law but struck down the “duty to refer” as insufficiently protecting the free exercise rights of health professionals. In other words, they may refuse altogether to render medical care even in emergency cases. The striking down of the “duty to refer” was a mere sop meant to appease the well-organized and well-publicized opposition of the Roman Catholic clergy, while preserving the core of the social programs that the RH law required.

\textsuperscript{149} Supra, at n. 56.
\textsuperscript{150} German v Barangan [1985] G.R. No. L-68828.
\textsuperscript{151} Supra, at n. 33.
### BENEVOLENT NEUTRALITY DOCTRINE

**Estrada v Escritor**[^152]

This is one of the recent high points in free exercise case-law, but it began as a mere administrative case to dismiss a court employee for immorality. She had cohabited and born a child with someone not her legal husband. She invoked her membership in the Jehovah’s Witnesses, which validated her union based on a document which they called the “Declaration of Pledging Faithfulness.”

The Court held that to dismiss her for immorality was to adopt the standards specific to one religion, in this case the Roman Catholic majority’s for whom the union was invalid, and to apply them to those from another religion for whom the union was legitimate. Thus a policy of “benevolent neutrality” and accommodation meant that she may not be forced to choose between practicing her religion and keeping her livelihood.

### POLITICAL PARTICIPATION OF LGBTs

**Ang Ladlad LGBT Party v COMELEC**[^153]

The 1987 Constitution provided not just for representatives elected at the district level but likewise for party-list representatives coming from disadvantaged sectors. The party-list group Ang Ladlad represented the lesbians, gays, bisexuals and transgendered, but were refused accreditation by the election commission, which said that the homosexuality was immoral and that Ang Ladlad, when it filed its application saying they did not advocate illegal or immoral acts, had actually stated a lie. The Supreme Court reversed the ruling, saying that the election commission would have to cite a valid legal ground to exclude Ang Ladlad.

### RELIGIOUS SPEECH

**Iglesia ni Cristo (INC) v CA**[^154]

The regulatory board governing broadcast networks censored the Iglesia ni Cristo for attacking the doctrines and practices of the Roman Catholics. The Supreme Court reversed the board, saying that the “remedy against bad theology is better theology” and the “bedrock of freedom of religion is freedom of thought and it is best served by encouraging the marketplace of dueling ideas.”

**MVRS Publications v Islamic Da’Wah Council of the Philippines**[^155]

Muslim clerics sued a tabloid for damages arising from defamation. The tabloid reported that Muslims did not eat pork because they considered pigs sacred. The Court threw out the complaint, saying that an action for defamation must be filed by the actual injured parties. Note the strict application of rules against the Muslims, and the liberal application in favour of the Iglesia ni Cristo.

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[^152]: *Estrada v Escritor* [2003] AM P-02-1651.
[^153]: *Ang Ladlad LGBT Party v COMELEC* [2010]) G.R. No. 190582.
[^154]: Supra, at n. 59.

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**Keeping the Faith:**

A Study of Freedom of Thought, Conscience, and Religion in ASEAN
Mideo Cruz’s *Poleteismo* was a collage intended to show the debasement of religion in the modern world, depicting an image of Jesus juxtaposed with condoms and other sexual objects. It was exhibited at the Cultural Center of the Philippines (CCP), the government’s premiere venue for exhibits and performances. The entire exhibit was prematurely closed after Catholic leaders called it blasphemy, and their followers defaced and tried to burn down the exhibit. They also filed criminal complaints for “immoral doctrines, obscene publications and exhibitions, and indecent shows” and those that “offend any race or religion.” All the charges were dismissed.

*Poleteismo* demonstrates the “heckler’s veto” in Philippine law. The exhibit was cancelled because religious fanatics tried to burn it down. The official ground for cancellation was not the religious objection but the peace and order rationale. Yet the result is that the fanatics achieved in law what they failed to achieve in fact (that is, burn down the exhibit). Conversely, the heckler was able to convert his religion-based harassment of the artist into a law-based veto.

### RELIGIOUS PARTICIPATION IN ELECTORAL CAMPAIGNS

<table>
<thead>
<tr>
<th><strong>Manuel Dayrit v Emily Abrera, Mideo Cruz et al.</strong>&lt;sup&gt;156&lt;/sup&gt; and <strong>Eusebio Dulatas, Jr. vs. Emily Abrera, Mideo Cruz et al.</strong>&lt;sup&gt;157&lt;/sup&gt;</th>
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<tr>
<td><strong>Velarde v Social Justice Society</strong>&lt;sup&gt;158&lt;/sup&gt;</td>
<td>A group of law professors objected to the practice by the influential charismatic and Pentecostal preachers of endorsing candidates during national and local elections, citing the separation of church and state. The trial court obliged, but the Supreme Court set aside the ruling saying that the trial court should have conducted a fuller evidentiary hearing on the merits.</td>
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<tr>
<td><strong>The Diocese of Bacolod and Bishop Vicente M. Navarra v Commission on Elections</strong>&lt;sup&gt;159&lt;/sup&gt;</td>
<td>The election commission stopped a Catholic bishop from posting huge banners on church premises campaigning against pro-Reproductive Health candidates, branding them “Team Patay” (or Team of Death), and calling for a “conscience vote” against the RH bill. The bishop and his diocese sought relief from the Supreme Court, which obliged with a “temporary restraining order” stopping the election commission from carrying out its ruling. Accordingly, the explicit campaign banners unabashedly displayed by a Catholic bishop in the premises of a Catholic church remained through the campaign period for the May 2013 elections.</td>
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<sup>156</sup> Manuel Dayrit v Emily Abrera, Mideo Cruz et al. [2011] OMB-C-C-11-0500-H.

<sup>157</sup> Eusebio Dulatas, Jr. v Emily Abrera, Mideo Cruz et al. [2011] OMB-C-C-11-516-H.


2. Administrative Bodies

There is no specialized government agency regulating religion. The National Commission on Muslim Filipinos (NCMF), formerly Office of Muslim Affairs, is the sole official representation of a religious community in government. The NCMF promotes the rights of Muslim Filipinos at both national and local levels through the development of culture, traditions, institutions and well-being of Muslim Filipinos.

3. Independent Bodies

The Philippine Commission on Human Rights (CHR) monitors and investigates issues on religious freedom. According to the Philippine Constitution, Article XIII, Section 18, the Commission on Human Rights has the power to investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights. It is also tasked with the function of monitoring the Philippine government’s compliance with international treaty obligations on human rights. Under Section 19 of the same article, Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into accounts its recommendations.

However, CHR powers have been clipped by the Supreme Court in various cases. In Cariño v Commission on Human Rights, the Court confined the CHR’s investigative and fact-finding powers in the case of 800 public school teachers who went on a protest mass leave, and struck down the CHR’s “return-to-work order” as partaking of a judicial character beyond the scope of the CHR’s constitutionally defined powers. Furthermore, in Simon, Jr. v Commission on Human Rights, the Court struck down the CHR’s “cease and desist order” stopping the demolition of stalls and shanties, saying that the CHR’s investigative and fact-finding powers are limited to “human rights violations involving civil and political rights,” not to economic and social rights. The shanty dwellers had invoked their right to a decent livelihood.

In Bautista v Salonga, the Court held that the appointment of the CHR Chairman is not subject to congressional confirmation, unlike appointments to full-fledged constitutional agencies expressly subjected by the Constitution to congressional checks and balances.

PART TWO: TRENDS IN RELIGIOUS RESTRICTION, PERSECUTION AND CONFLICT

This portion of the report relies on the Universal Periodic Review (UPR) Philippine Reports (1st and 2nd cycle), the Human Rights Watch World Reports in 2013 and 2014, and the US Department of State Annual Reports on International Religious Freedom (2000-2012). It was culled from both the UPR and Human Rights Watch Reports. Reports of persecutions were lifted from the US Department of State Annual Reports on International Religious Freedom and local news sources.

A. Significant Changes in the Law

The only significant new law has actually been a non-religious law, the Reproductive Health Law, that was vehemently opposed by the Catholic clergy because it ensures access to contraceptives.
(all of which, the clergy says, are abortifacients)\textsuperscript{166} and enables government to make contraceptives available to poor married couples. The law was upheld by the Supreme Court, but it struck down the “conscientious objector” clause (that protected conservative doctors who refused to render family planning advice) because it imposed upon them the “duty to refer” the patient to willing doctors.\textsuperscript{167}

B. Significant Changes in State Enforcement

There has been no record of the state singling out members of a religion for prosecution, except in the Moonies case discussed below, where their mass wedding was suspected of being a front for human trafficking. Apart from that, the only actual religion-based prosecution was in the case filed by a Catholic priest against celebrity tourist guide Carlos Celdran, who interfered with a religious event to protest the clergy’s opposition to the Reproductive Health bill.\textsuperscript{168} Celdran was charged and convicted by a lower court under Article 133 of the Revised Penal Code for offending religious feelings. The case is currently on appeal.

C. Significant Changes in Religious Claims by Non-State Actors

There is no record of claims by non-state actors against believers of certain faiths. The closest case involved the persecution by Catholic clergy and their loyal followers of an artist Mideo Cruz, whose collage entitled Poleteismo was deemed “blasphemous” by conservative Catholics. The Cultural Center of the Philippines, a government office, prematurely shut down the entire art exhibit. Cruz’s oppositors filed cases, but these were all dismissed.

In 2012, Pilar College of Zamboanga, a privately-run Catholic college in the southern Philippines, became controversial because of its “no hijab” school policy. Reliable reports confirmed that the school’s administrators had a long-standing prohibition against wearing the hijab and this was for the purpose of maintaining “uniformity” among the students and in order “to avoid discrimination” against Muslim students.\textsuperscript{169}

In 2013, Roman Catholic churches put up banners on the outer walls of the church discouraging Catholic Faithful from voting for Pro-RH Law Senatoriables, dubbed “Team Patay,” in the 2013 Senatorial Elections.\textsuperscript{170}

D. Significant Events of State Persecution

There has been no deliberate targeting by the state of any religious group. However, there have been episodes of state action that has the effect of seriously restricting religious freedom.


\textsuperscript{167} \textit{Imbong v. Ochoa}, supra \textit{n. 33}.

\textsuperscript{168} \textit{People v Carlos Celdran}, supra, n. 43.


1. **1986 EDSA People Power Revolution**\(^{171}\)

The Catholic clergy was influential in anti-Marcos opposition and Jaime Cardinal Sin, the Archbishop of Manila, and the Catholic Church’s radio station, Radio Veritas, played a key role in the sequence of events leading to the ouster of President Ferdinand Marcos, the dictator who placed the country under martial law in 1972. Many Catholic radio stations were shut down during martial law. Included were the member stations of the Philippine Federation of Catholic Broadcaster (PFCB). Catholic radio stations were eventually allowed to broadcast again, but American priests who took part were deported and other priests were arrested. Priests, nuns, and laypersons suspected of subversion were also detained.

2. **Moonies Wedding**

On 26 January 1996, the Holy Spirit Association for Unification of the World of Christianity (HSA-UWC), known internationally as the Moonies, conducted a mass wedding at the Philippine International Convention Center between Filipina brides and South Korean grooms after being matched by a computer. The Bureau of Immigration banned the departure of all 984 Filipina brides after confirmed reports linking the Korean missionaries to massive recruitment of unwary Filipinas. The BID Travel Control Service Chief alleged that what happened was a “mail-order bride” in reverse, which is illegal in the Philippines, or human trafficking in disguise.\(^{172}\)

The legal counsel and spokesman of the HAS-UWC called the charges against the HAS-UWC “a direct attack on the sacred procedure of ‘blessing’ which is central to the Unification Movement’s faith and creed” and alleged that the government has discredited the system of religious right the Unification Church is founded. The HAS-UWC officers were charged with violating the Anti-Mail Order Bride Law. Chuk Hwan Kwak, who conducted the ceremony, was also charged for violating Article 177 of the Revised Penal Code for solemnizing a marriage without a license of authority from the Philippine government.\(^{173}\)

The believers of the HAS-UWC complained that the prosecution of their officers amounted to religious persecution because the police authorities did not respect their religious beliefs and characterized them as a front for human trafficking.

3. **Muslim Economic Discrimination**\(^{174}\)

Muslim religious leaders asserted that Muslims suffer from economic discrimination, which is reflected in the government’s failure to provide money to stimulate southwestern Mindanao’s sluggish economic development. They also cited the lack of proportional Muslim representation in the national government institutions. In 2000, there were no Muslim cabinet secretaries, senators, or Supreme Court justices. Nine Muslims held seats in the 222-member House of Representatives. Leaders in both Christian and Muslim communities contend that economic disparities and ethnic tensions, more than religious differences, are at the root of the modern separatist movement that emerged

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in the early 1970’s. Some employers have a biased expectation that Muslims will have lower education levels. Muslims reported that they had difficulty renting rooms in boarding houses or being hired for retail work if they use their real names or wear distinctive Muslim dress, and thus resorted to the use of Christian pseudonyms and Western clothing.

4. PNP Proposes Identification System for Muslims\(^{175}\)

In March 2004, Muslim leaders within the government and the private sector objected to the proposal of the Philippine National Police (PNP) to adopt an identification system exclusively for Filipino Muslims, which they regarded as discriminatory. PNP responded that a Muslim group voluntarily proposed the adoption of an identification system for all Muslim residents in Metro Manila as a means to identify suspected terrorists and criminals who are seeking refuge in Muslim communities. The proposal was abandoned for the national identification system proposal, which the Supreme Court later held unconstitutional.

5. Denial of Party-List Accreditation to LGBT Party

In 2010, the Commission on Elections (Comelec) denied party-list accreditation to Ang Ladlad LGBT Party on the grounds that the party advocates "sexual immorality" and "tolerates immorality which offends religious beliefs," citing verbatim passages from the Bible. The Supreme Court later overturned the Comelec ruling and accredited Ang Ladlad.\(^{176}\)

6. Official Endorsement of Catholic Opposition to Same Sex Unions

Another incident involved opposition of Catholic Bishops to same-sex unions celebrated publicly in Baguio City during the city’s gay pride celebrations in 2011. Catholic bishops aired their opposition to holy union rites over national television. Baguio councillors supported the opposition and threatened to declare the officiating minister \textit{persona non grata} in Baguio City.\(^{177}\)

E. Significant Events of Non-State Persecution of Religious Groups

There is no record of religious groups directly persecuting other religious groups.

F. Significant Events of Inter-Religious Conflict

The Muslim secessionist war has raged since 1973. Muslim Filipinos are concentrated in the southernmost island of Mindanao, which was never effectively occupied by the Spanish government, except for the colonial outpost of Zamboanga. The United States eventually brought Mindanao under effective occupation, encouraged the migration of Christian settlers, and governed the Muslim Filipinos as “Non-Christian Tribes.”

Although the Muslim population is divided into ethnic groups and royal families, the singular identity of the Bangsamoro nation was first asserted in 1973 by the secessionist group Moro National Liberation Front (MNLF), organized by a former political science lecturer at the University of the Philippines, Nur Misuari. The war led to a peace agreement between the Marcos government and the MNLF, the


\(^{176}\) Supra, at n. 153.

1976 Tripoli Agreement, granting autonomy to the remaining Muslim areas in Mindanao and brokered by the Organization of the Islamic Conference and by Libyan leader Muammar Khaddafi. This Agreement was never implemented.

When Marcos was ousted, Corazon Aquino resumed talks with Misuari. The 1987 Constitution provided for an Autonomous Region of Muslim Mindanao (ARMM), and the Philippine Supreme Court, in Abbas v. Commission on Elections, held that the 1987 constitutional requirement of a plebiscite in the purported autonomous region prevails over the 1976 Tripoli Agreement which required no such plebiscite.

The ARMM is now in place, but the armed conflict persists. A new group, the Moro Islamic Liberation Front (MILF), an MNLF breakaway, has recently signed a peace agreement with the government of President Benigno Aquino III. The 2012 Framework Agreement will be discussed below (see Part II.J).

G. Significant Events of Terrorism and/or Terrorist Threats

The main terrorist group is the Abu Sayyaf, a breakaway faction of the Moro Islamic Liberation Front, but which has been involved in the kidnap-for-ransom of foreign tourists and missionaries. While those involved in the kidnappings have been prosecuted as common criminals, the Abu Sayyaf is still characterized by the International Committee of the Red Cross as an “armed group” for the application of the 1949 Geneva Conventions and the 1977 Additional Protocols, all of which have been signed by the Philippines.

H. Cross-Border Impact of Religious Persecution or Conflict

In the past, the main cross-border implication of the Muslim secessionist war is that it was supported by various patrons in the Middle East and in Malaysia. Today those patrons are gone and the only cross-border implication that remains is with Malaysia. The Philippines and Malaysia have a long-standing territorial dispute over Sabah, currently governed by Malaysia but where at least one million Filipinos reside, only half of whom have regular immigration papers.

The first consequence is the suspected role of Malaysia in initially fostering the secessionist movement, and Malaysia’s current role in brokering the peace negotiations with the MILF.

The second is that, while the territorial claim has long been maintained by the Philippine government, it has remained dormant in the past 40 years. However, the claim is actually based on succession by competing royal families, one of whom sent armed groups last year, in February 2013, to win back his “lost” estate.

I. Governmental Response

1. Legislative

a. Autonomous Region of Muslim Mindanao

In response to the Muslim secessionist movement, Muslim Mindanao is constitutionally recognized as an autonomous region. As stated above, Article X, Section 1 of the Constitution establishes that there shall be autonomous regions in Muslim Mindanao and the Cordilleras (see Part I.4.f).

The autonomous region would be governed by an organic act. Section 18 of Article X states that this shall be enacted by Congress with the assistance and participation of the regional consultative
commission composed of representatives appointed by the President from a list of nominees from multi-sectoral bodies. This organic act defines the basic structure of government for the region consisting of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units. The organic act also provides for special courts with personal, family, and property law jurisdiction consistent with the provisions of the Constitution and national laws. The creation of the autonomous region is effective when approved by majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favourably in such plebiscite shall be included in the autonomous region.

On 1 August 1989, the Organic Act of the Autonomous Region in Muslim Mindanao was signed into law by then President Corazon C. Aquino. On 17 November 1989, a plebiscite was conducted in the proposed areas of ARMM wherein only four provinces opted to join the area of autonomy. These are the provinces of Maguindanao, Lanao del Sur, Tawi-Tawi and Sulu.

The first election in ARMM was held on 17 February 1990. The first Regional Governor elect was Atty. Zacaria Candao who took his oath of office on 6 July 1990 and significantly started the formal operation of the ARMM. Succeeding set of officials took their terms of office on 2 April 1993, where Lininding P. Pangandaman was elected as the second Regional Governor, following the administration of Atty. Candao.

On 2 September 1996, the MNLF and the Philippine Government signed the final Peace Agreement which led to the election of MNLF chairman Nur Misuari as Regional Governor of ARMM. The Peace Agreement also paved way for the creation of the Special Zone of Peace and Development (SZOPAD) and Southern Philippines Council for Peace and Development (SPCPD) which were established by virtue of Executive Order No. 371 on 21 October 1996 by then President Fidel V. Ramos. Governor Misuari was named as the SPCPD Chairman.

**Code of Muslim Personal Laws (CMPL)**

As discussed above, pursuant to the 1976 Tripoli Agreement signed by the Marcos government with the Moro National Liberation Front (MNLF), Marcos issued a presidential decree (using his legislative powers then) “recognizing the system of Filipino Muslim laws [and] codifying Muslim personal laws.” Presidential Decree 1083 ordained and promulgated a code recognizing the system of Filipino Muslim laws, codifying Muslim personal laws and providing for its administration and for other purposes. It also establishes three main institutions – a Shari’a court system; the Agama Arbitration Council for amicable settlement of cases; and the mufti, or Islamic Jurisconsultant position in the Supreme Court.

**National Unification Commission**

The NUC was constituted to address concerns relating to the creation of a viable general amnesty program and peace process, and the problem of bringing back the rest of the rebels in Philippine society to the folds of the law. The government had determined that there is need to undertake a comprehensive and participative peace process which will involve all concerned sectors of society in order to generate the collective political will to attain peace with justice. The Commission’s authority and functions are as follows:

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182 Id.
• Formulate and recommend, after consulting with the concerned sectors of society, to the President within ninety (90) days from its formal organization a viable general amnesty program and peace process that will lead to a just, comprehensive and lasting peace in the country;
• Call upon any official, agent, employee, agency or instrumentality of the national or local government for any assistance that may be necessary to carry out the purposes of this Executive Order;
• Review and evaluate the existing National Reconciliation and Development Program (NRDP) pursuant to Executive Order No. 103 dated 24 December 1986 with the view to integrating the program into the general amnesty program and peace process;
• Prescribe the corresponding duties, functions and working procedures of the Technical Committee and Secretariat.183

2. Prosecutions of perpetrators

Under Philippine law, any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity may seek the protection of the courts. This is done via a writ of Amparo.184

J. Developments in Advancing Religious Freedom, Dialogue, and Conflict Mediation

Interfaith Dialogues

In 1988, a National Ecumenical Consultative Commission was organized under the auspices of Malacañang. The government’s National Ecumenical Consultative Committee (NECCOM) fosters interfaith dialogue among the major religious groups, including the Roman Catholic Church, Islam, Iglesia ni Cristo, the Philippine Independent Church (Aglipayan), and Protestant denominations. The Protestant churches are represented in the NECCOM by the National Council of Churches of the Philippines and the Council of Evangelical Churches of the Philippines. Members of the NECCOM meet periodically with the President to discuss social and political issues. Amicable ties among religious groups are reflected in many non-official organizations.185

The current administration continues to promote interfaith dialogue to build mutual trust and respect among various religious and cultural groups. The government participated in the sixth Asia Pacific Regional Interfaith Dialogue in 2012.186

At the international level, the Philippines is at the forefront of interfaith initiatives. It advocates increased support for a resolution on the promotion of interfaith dialogue for peace at the United Nations General Assembly and has spearheaded the Tripartite Forum on Interfaith Cooperation for

183 Constituting the National Unification Commission and Prescribing its Authority, Functions, and for Other Purposes, Executive Order No. 19 (1992) (Philippines).
In The Province of North Cotabato, et al. v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain, the Supreme Court struck down the peace agreement with the Moro Islamic Liberation Front.\textsuperscript{189} The Court held that the Memorandum of Agreement on the Ancestral Domain Aspect of the GRP-MILF Tripoli Agreement on Peace of 2001 gives the newly created Bangsamoro Juridical Entity the “plenary power … to revoke existing proclamations, issuances, policies, rules and guidelines, forest concessions, timber licenses, contracts or agreements in the utilization of natural resources, mining concessions, land tenure instruments.” The Court found that an undue delegation of executive power. “The President may delegate its executive power only to local government units or an administrative body attached to the executive department. The delegation of power to the BJE, on the other hand, is a delegation of executive power to an entirely different juridical entity that is not under its supervision or control.”

The Court stated further that the government’s cabinet secretary for peace negotiations “failed to carry out the pertinent consultation process [required by law]. The furtive process by which the MOA-AD was designed and crafted … illustrates a gross evasion of positive duty and a virtual refusal to perform the duty enjoined. …. Not only its specific provisions but the very concept underlying them, namely, the associative relationship envisioned between the GRP and the BJE, are unconstitutional, for the concept presupposes that the associated entity is a state and implies that the same is on its way to independence.”


2012 Bangsamoro Framework Agreement

The latest Bangsamoro Framework Agreement, signed 27 March 2014, envisaged a process of normalization “whereby communities can achieve their desired quality of life, which includes the pursuit of sustainable livelihood and political participation within a peaceful deliberative body.” It aims to ensure human security in the Bangsamoro. To achieve this end, various commissions were to be created for transition and collaboration, together with an International Monitoring Team. The primary function of implementing the plan is with a Joint Normalization Committee, a Joint Peace and Security Committee, and Joint Peace and Security Teams. This will be done by the gradual decommissioning of the MILF forces by an Independent Decommissioning Body and the redeployment of the Armed Forces of the Philippines, through the total ban on land mines, the disbanding of private armies, a social economic program, a Transitional Justice and Reconciliation Commission, mobilization of resources, and confidence-building measures.

In the meantime, a Bangsamoro Transition Commission (BTC) will be formed. A principal function of the BTC will be the drafting of the Bangsamoro Basic Law to be submitted to the President for him to certify to Congress as urgent. Once the basic law is enacted by Congress, it will be submitted for ratification by the voters in the core territory of the Bangsamoro. Another principal function of the BTA is to prepare for the transition to a ministerial form of government. The Bangsamoro Basic Law shall provide for the organization and composition of the BTA whose members shall be appointed by the President. The BTA shall be MILF-led.

The agreement also provides for power sharing between the national and regional governments. According to Annex 3 on Power Sharing, the powers are divided thus: reserved powers, i.e., powers retained by the central government; concurrent powers, i.e., shared powers between the two entities as set in the annex and provided in the basic law; and exclusive powers of the Bangsamoro government. The relationship between the two governments is described as “asymmetric,” a bit of a tricky concept. It is reflective of the recognition of the Bangsamoro identity and their aspiration for self-governance which makes it distinct from the regions and local governments. It is governed by a democratically elected assembly consistent with a ministerial form of government. Also, there is power-sharing on transportation and communication, mineral energy resources, taxation and others.

The Agreement also provides for revenue generation and wealth sharing. Annex 4 states:

The parties recognize that revenue generation and wealth sharing are important to the existence of the Bangsamoro, which is
among the most underdeveloped areas in the country. Thus, the parties commit jointly to pursue measures to increase the Bangsamoro’s wealth and capability for revenue generation. This will involve taxation and other sources of revenue and wealth.

In essence, the current 2012 Framework Agreement, together with its 2013/14 Annexes, is substantially the same as that in 2008, but has received more favourable press because it is sponsored by a more popular president.

**K. Analysing the Trends**

The most recurrent irritant to church-state separation in the Philippines has been largely symbolic and interstitial, namely, the almost casual assumption that the ways and practices of the dominant faith, that of the Roman Catholics, should be reflected in secular life and law. It has led to Supreme Court decisions and highly-politicized debates because, though symbolic, through them the religious majority flaunts its ascendancy and the minority is forced to “know its place.”

The main threat therefore to the separation of church and state in the Philippines comes from the entrenched position of the majority religion and its invigorated position in the post-Marcos democracy which it was instrumental in restoring. However, the threat does not involve violence but rather the constant flexing of secular muscle, e.g., the 14-year stonewalling and filibustering in Congress against the Reproductive Health Law. Moreover, even when the Supreme Court eventually upheld the law, it paid homage to the anti-RH lobby by striking down as insufficiently deferential to “free exercise” the “conscientious objector” clause.

This has provoked a backlash from minority and non-mainstream groups. The Iglesia ni Cristo has engaged in “block” voting as a unified flock for their chosen candidates and have been the swing vote in many elections. The charismatic and Pentecostal groups have formed their own party-list groups for Congress, and fielded their own candidates under the banner of these front organizations.

Strangely then, the fall of the dictatorship and the rise of a fledgling democracy has weakened church-state separation. On one hand, “one-person, one vote” enables the religious majority to act as well as a political majority, and to think they can codify religious biases into law. On the other, weak republican institutions enable religious elites and well-organized sects to project their voices as that of the majority, forcing religion-neutral state institutions to buckle under the weight of the “heckler’s veto.”

On the other hand, the legitimizing power of religion can be seen in the Islamic secessionist movement. The latest peace agreement with the Islamic rebels deal mainly with power- and revenue-sharing, and barely with religion-related matters, apart from a few clauses on the expansion of Shari’a courts which have been in place since the Marcos years. Significantly, the only religious portion of the peace agreement is its first line, “In the Name of God, the Beneficent, the Merciful.” The armed conflict is based on religious identity, reflected in its name, Moro Islamic Liberation Front, Moro being the old Spanish term for the Muslim Moors, and Islamic of course being explicitly religious. However, religious identity serves as a proxy for long-standing political and economic grievances that, as the 2012 peace agreement shows, are best addressed through political and economic arrangements that have little to do with religion. Thus, it may be observed that in the secessionist war, religious identity, while central to the characterization of the armed groups, is not central to the grievance that pushes them to wage war. These grievances are more economic and political, and not religious in character. The purely religious grievances have been accommodated through the Shari’a courts, madrasah schools, etc.,
and the most glaring acts of discrimination and exclusion lie in access to their share in national resources and economic opportunities.

PART THREE: CONTRIBUTING FACTORS AND SURROUNDING CIRCUMSTANCES

A. Negative Contributing Factors

The main negative contributing factor since the fall of Marcos in 1986 is the resurgence of the power of the Catholic clergy, and the in-your-face assertion of its power to mobilize its followers for or against political causes and personalities, coupled with weak republican institutions that could have stood against the rise of Catholic hegemony. The Catholic Bishop’s Conference of the Philippines has marshalled the most conservative Filipino Catholics against the Reproductive Health Law, and thus a group which had for the past decades receded into the background were suddenly front and centre in public debate and were given both a platform and a rallying point. While the authoritative surveys and polls show that majority of Filipinos support the Reproductive Health Law (71% of the population in 2014\textsuperscript{193} and 69% of Catholic Filipinos in 2010\textsuperscript{194}), it still took the Philippine Congress more than 14 years to pass the law because of the legislators’ fear of losing the clergy’s support.

This shows a dysfunction in Philippine democracy, where a well-organized and vocal minority (the clergy) can trump a dispersed majority. Indeed even the Supreme Court remains divided even as it upheld the Reproductive Health Law. That politicization also affected the Supreme Court’s position on the Muslim insurgency, when it struck down the 2008 peace agreement embodied in the Memorandum of Agreement on the Ancestral Domain. The current 2012 Framework Agreement, including its 2013/14 Annexes, is substantially the same as that in 2008, but has received more favourable press because it is sponsored by a more popular president.

The post-Marcos public flexing of Catholic muscle has provoked a backlash from the Iglesia ni Cristo (which practices block-voting during elections) and the charismatics/evangelicals (which endorse candidates during elections and, in the party-list system, have actually formed their own parties and fielded their own candidates).

B. Positive Contributing Factors

The most recent positive developments are the latest peace agreement with the Moro Islamic Liberation Front, which should defuse the religious character of the conflict and surface its economic and political roots, and the passage of the Reproductive Health Law, which was adopted by Congress and validated by a divided Supreme Court over the vehement opposition by the Catholic clergy and its followers.

At the same time, the 1987 Constitution contains the “establishment clause” and enough “free exercise” guarantees to protect believers from the smaller churches. The rhetoric of the liberal secular state is still ascendant in local discourse, and has allowed the entry and flourishing of other churches.

The Supreme Court upheld the Reproductive Health Law but also struck down some minor clauses (especially on conscientious objections by true believers among health professionals). Both the voting record and the clear affirmations of faith by some justices show a supposedly non-political court in thrall of a politicized clergy, but yet yielding to the primacy of a secular Constitution. In other words, the 1987 Constitution carves out enough space for...
minority religions to flourish and some restraint to rein in the power of the Catholic clergy.

PART FOUR: CONCLUSION

The principal issue on religious freedom in the Philippines is the power of the Catholic Church, the majority religion, vis-à-vis the Islamic minority and the smaller Christian churches and charismatic/evangelical groups. We situate this issue in the context of the larger debate about republican norms and democratic politics, wherein the power of the Catholic clergy and its organized faithful prevails in secular politics over the preferences of the dispersed majority of Catholics, and the smaller Christian groups.

The separation doctrine is well established in Philippine law but has been most compromised in practice since the resurgence of the political power of the Catholic clergy after the fall of Marcos in which the clergy played a historic role. The principle of the secular state was most recently tested with the adoption of the Reproductive Health Law, which was legislated over the vehement protests by the Catholic clergy and was upheld recently by the Supreme Court.

In terms of membership, the numbers have not varied much in the principal religious groups. The census figures show no dramatic shifts except for the rise in the past three decades of the Catholic charismatics and the Protestant evangelicals, and the steady but slow rise of Mainline Protestant groups. The figures may be misleading though because the categories may reflect form more than substance. For instance, the charismatics may be officially affiliated with the Catholic Church but closer to the Protestant evangelicals in terms of ritual or focus. Both the charismatics and evangelicals wield their own separate power in secular politics and in civil society. The flourishing of non-Catholic groups suggests a congenial legal framework that carves out enough space for smaller religions to proselytize and worship, and bodes well for both the “free exercise” and “establishment” clauses of the Constitution.

In terms of compromises of the separation doctrine, the examples are many. While they are largely symbolic (e.g., crucifixes in government offices, “ecumenical” prayers in courts, official observance of mainly Catholic holidays), they nonetheless erode the integrity of the doctrine.

However, the largest compromise is actually highly political and indeed constitutional, the grant of autonomy to Muslim Mindanao, including the codification into the national legal order of Shari’a law and courts. The grant of autonomy has been confirmed by the political and judicial branches of government, which recognize the historical grievances of the Muslim minority and the protracted secessionist war in Mindanao. The recent peace agreements remain pending, but they easily demonstrate that while the group identity of the rebels is defined in religious terms (e.g., Moro Islamic Liberation Front), the grievances are actually economic and political (e.g., power-sharing and wealth-sharing). Conceptually speaking, to classify the armed conflict as religious in character is itself a political act, a deliberate choice by both the rebel groups and the government negotiators.

Finally, if we are to strengthen religious freedom in Philippine law, the principal challenge is how to strengthen republican norms and institutions that embody the secular state, so that the principle of the separation of church and state is not hostage to political and religious majorities, or to elite organizations like the clergy that purport to speak in their behalf.
Below are the description of various religious groups identified in the government’s Census of Population and Housing. Note that some categories overlap. Roman Catholics will include Catholic charismatics, but Mainline Protestants do not include Protestant evangelicals. Indeed, Mainline Protestants are counted separately from other Protestant churches.

**Roman Catholicism**

Roman Catholicism was brought to the Philippines by Spain, when Ferdinand Magellan, a Portuguese explorer sailing under Spanish royal authority, landed in 1521. The archipelago soon became a Spanish colony for the next three hundred years. Roman Catholic leadership in the Philippines is held by the Catholic Bishops’ Conference of the Philippines (CBCP).

**Islam**

The rise of Islamic political institutions in Southeast Asia in the early 15th century is viewed as the culmination of Islamization after about 200 years when the Arabs introduced Islam directly to the masses. The Philippine Muslims was once a dominant group in the country. During the colonization of Spain, Muslims in the south resisted Spanish rule. Philippine Muslims are now concentrated in the southernmost island of Mindanao.195

Filipino Muslims are the only group today that has launched a religion-related armed uprising against the Philippine government. (The other armed uprising is by the Maoist rebel group, the Communist Party of the Philippines and its New Peoples’ Army.) The Moro National Liberation Front and its now more powerful breakaway group the Moro Islamic Liberation Front have been engaged in a secessionist war for a Bangsamoro homeland and have entered into their respective peace agreements with the Philippine government. While the group identity is based on Islam, the grievances actually pertain not to religion but to the sharing of political and economic power, as reflected in the peace agreements. (See Philippine Country Report at Part II.J and K.)

**Mainline Protestants**

“Mainline Protestant” is understood to refer to denominations with a “long standing history.” The Pew Forum on Religion and Public life in its Report on Classification of Protestant Denominations in the United States196 identifies three general classifications of protestants: Evangelical Protestant churches, Mainline Protestant churches, and the Historically Black Protestant Churches. While this study pertains to Protestantism in America, it details the “older” forms of Protestantism that draws its roots from the Reformation movement of the 1600s in Europe and was appropriated in their own history as European immigrants to North America. The American protestant denominations are historically recorded as the groups197 that sent


197 Methodist Episcopal Church, the Evangelical United Brethren Church, the (Northern) Baptist Church, the Christian and Missionary Alliance, the Free Methodist Church, the British and Foreign Bible Society, and the American Bible Society, as well as the Presbyterian Church.
missions to the Philippines in the early 1900s. The wave of American Protestant missions in the Philippines led to a 1901 comity agreement\textsuperscript{198} which laid out geographic boundaries for the “mission work” of the Mainline Protestant missionaries in the Philippine Islands.

The Philippine Council of Evangelical Churches\textsuperscript{199} (PCEC) and the National Council of Churches in the Philippines\textsuperscript{200} (NCCP) are the Protestant umbrella organizations of member churches with ties to “mainline” Protestants pursuant to the 1901 comity agreement. It is difficult to differentiate the two umbrella organizations even for census purposes. They appear to be two major Protestant blocs in the Philippines that parallel those in the United States, namely, one having ties with the World Evangelical Alliance, and which maintains a conservative stance in its dealings with theology and social principles;\textsuperscript{201} and the other having ties with the World Council of Churches\textsuperscript{202} and which engages in ecumenical work “by serving human need, breaking down barriers between people, seeking justice and peace, and upholding the integrity of creation.” The PCEC has affiliations with the World Evangelical Fellowship, while the NCCP with the World Council of Churches.

- **Pentecostals**

  The Pentecostals are typically Protestant charismatics. Drawing from the biblical Pentecost narrative in Acts where the Apostles began “to speak in other tongues as the Spirit enabled them” (Acts 2.4), the Pentecostals teach that all Christians should seek the same post-conversion religious experience called the Baptism of the Holy Spirit. All those who experience such conversion may receive one or more spiritual gifts such as the ability to prophesy or speak forth messages from God, the practice of physical healing, interpreting or speaking in tongues or spiritual languages. Pentecostalism has its roots in the 19th-century Holiness movement. Among the larger Pentecostal denominations are the Assemblies of God and the Church of God in Christ.\textsuperscript{203}

- **Charismatics**

  Charismatics are members of either the Orthodox, Catholic or Protestant denominations, who adhere to some beliefs and practices associated with Pentecostalism such as speaking in tongues, healing and prophesying.\textsuperscript{204} Following the CPH, this study assimilates the “charismatics” to the Catholics. The largest Catholic charismatic group is El Shaddai headed by a high profile and influential preacher, Brother Mike Velarde.

- **The Evangelicals and the “Born Again”**

  The Evangelicals and the “Born Again” are the Protestant “charismatics.” “Born again” is, by and large, an Evangelical teaching upholding the centrality of the conversion or “born again” experience in receiving salvation; the belief in the Bible and its authority as God’s revelation to humanity; and a commitment to evangelism or sharing the Christian message. These are among the shared tenets of this “trans-denominational movement.”\textsuperscript{205}

\textsuperscript{198} The Comity Agreement of April 1901 on regional mission work boundaries: Methodists (most of lowland Luzon, north of Manila); Presbyterians (Bicol, Southern Tagalog, parts of Central and Western Visayas); Baptists (Western Visayas); United Brethren (Mountain Province and La Union); Disciples of Christ (Ilocos, Abra, some Tagalog towns); Congregationalists (Mindanao except the Western part); Christian and Missionary Alliance (Western Mindanao and Sulu Archipelago).

\textsuperscript{199} See http://pceconline.org.

\textsuperscript{200} See http://nccphilippines.org.

\textsuperscript{201} See http://www.worldea.org/whoweare/vision-mission.


\textsuperscript{204} Id.

\textsuperscript{205} Id.
• **The United Church of Christ in the Philippines**

In 1948, the organic union of the United Evangelical Church in the Philippines, the Evangelical Church in the Philippines, the Philippine Methodist Church and other independent churches at the historic Ellinwood Malate Church formed what is today the United Church of Christ in the Philippines.206

• **Iglesia ni Cristo (INC)**

The Iglesia ni Cristo also known as INC is an entirely indigenous Christian church in the Philippines. Founded in 1914 by a Filipino preacher, Felix Manalo, the INC is the largest religious organization that originated from the Philippine Islands and is the largest independent Christian Church in Asia.207 The INC marked its centennial in 2014, in a gathering that broke two Guinness world records. It was at the 55,000-seat Philippine Arena specifically built for the occasion, declared by Guinness as the world’s “largest mixed-use indoor theatre” with the “largest gospel choir” performing at a single venue.208

• **Iglesia Filipina Independiente (IFI)**

The Iglesia Filipina Independiente was formed in the beginning of the twentieth century as part of the independence revolution against Spanish colonialism. It traces its origin to the struggle of the Filipino clergy against racial discrimination and friar domination within the Roman Church in the 19th century. Its first leader, Obispo Maximo Gregorio Aglipay headed the revolutionary church from 1902 to 1940.209

• **Seventh-day Adventist (SDA)**

Founded in the United States by Ellen White, James White and Joseph in 1863, Seventh Day Adventism was brought to the Philippines via Australia by Robert A. Caldwell in the mid-1900s. Since then, the church has a presence in almost all major cities and municipalities all over the country.210

• **Jehovah’s Witnesses**

Jehovah’s Witnesses began in the country in 1912, when the then-president of Watchtower Bible and Tract Society, Charles Taze Russell, gave a talk at the former Manila Grand Opera House. Jehovah’s Witnesses, known to them as “publishers,” have 3,174 congregations nationwide.211 Significantly, the conscientious objection cases involving Jehovah’s Witnesses have reached the Philippine Supreme Court.

• **Church of Jesus Christ of the Latter-Day Saints (LDS)**

The first attempt to introduce the Church in the Philippines was made in 1898 during the Spanish-American War by Willard Call and George Seaman, American servicemen from Utah, who had been sent as missionaries prior to their departure. As opportunity arose, they preached the gospel, but with no apparent success. Following World War II, Maxine Grimm, who came to the Philippines with the Red Cross in 1945, introduced the gospel to Aneleta Pabilona Fajardo, who was baptized in 1945. She was the first Filipino to join the Church in the islands.212

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210 See http://adventist.ph/history.


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