



Republic of the Philippines
Supreme Court
Manila

EN BANC

RE: LETTER OF
TONY Q. VALENCIANO,
HOLDING OF RELIGIOUS
RITUALS AT THE HALL OF
JUSTICE BUILDING IN
QUEZON CITY

A.M. No. 10-4-19-SC

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, JJ.

Promulgated:

March 7, 2017

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RESOLUTION

MENDOZA, J.:

One of our fundamental differences lies in our chosen religion. Some put their faith in a god different from ours, while some may not believe in a god at all. Nevertheless, despite the inconveniences this difference may cause us, we must accept it unconditionally for only upon acceptance of the fact that we are different from each other will we learn to respect one another.

This controversy originated from a series of letters, written by Tony Q. Valenciano (*Valenciano*) and addressed to then Chief Justice Reynato S. Puno (*Chief Justice Puno*).

In his first Letter,¹ dated January 6, 2009, Valenciano reported that the basement of the Hall of Justice of Quezon City (*QC*) had been converted into a Roman Catholic Chapel, complete with offertory table, images of Catholic religious icons, a canopy, an electric organ, and a projector. He believed that such practice violated the constitutional provision on the separation of Church and State and the constitutional prohibition against the appropriation of public money or property for the benefit of a sect, church, denomination, or any other system of religion.

Valenciano further averred that the holding of masses at the basement of the QC Hall of Justice showed that it tended to favor Catholic litigants; that the rehearsals of the choir caused great disturbance to other employees; that the public could no longer use the basement as resting place; that the employees and litigants of the Public Attorney's Office (*PAO*), Branches 82 and 83 of the Regional Trial Court (*RTC*), Legal Library, Philippine Mediation Center, and Records Section of the Office of the Clerk of Court (*OCC*) could not attend to their personal necessities such as going to the lavatories because they could not traverse the basement between 12:00 o'clock noontime and 1:15 o'clock in the afternoon; that the court employees became hostile toward each other as they vied for the right to read the epistle; and that the water supply in the entire building was cut off during the mass because the generator was turned off to ensure silence.

In his 1st Indorsement,² dated February 6, 2009, Chief Justice Puno referred Valenciano's letter to then Deputy Court Administrator (*DCA*) and Officer-in-Charge of the Office on Halls of Justice, Antonio H. Dujua (*DCA Dujua*).

In turn, DCA Dujua, in his 1st Indorsement,³ dated February 11, 2009, referred the letter to Executive Judge Teodoro A. Bay (*Judge Bay*) of the RTC and to Executive Judge Luis Zenon Q. Maceren (*Judge Maceren*) of the Metropolitan Trial Court (*MeTC*) for their respective comments.

In his March 6, 2009 Letter,⁴ addressed to DCA Dujua, Judge Maceren clarified that the basement of the QC Hall of Justice was known as the prayer corner. He opined that the use of the said area for holding masses did not violate the constitutional prohibition against the use of public property for

¹ *Rollo*, pp. 20-22.

² *Id.* at 2.

³ *Id.* at 23.

⁴ *Id.* at 28-30.

religious purposes because the religious character of such use was merely incidental to a temporary use.

In his Memorandum,⁵ dated March 10, 2009, Judge Bay manifested that he was due to compulsorily retire on April 29, 2009, and he was taking a leave of absence prior to such date to concentrate in resolving cases submitted for decision before his sala and requested that then Vice-Executive Judge Jaime N. Salazar (*Judge Salazar*) be assigned to further investigate, study, and make recommendations on the matter raised by Valenciano.

In the meantime, Judge Bay recommended that, pending the final resolution of the case, daily masses be permitted to continue, provided that: (1) the mass be limited to thirty (30) minutes; (2) no loud singing be allowed so as not to disturb others; and (3) the inconveniences caused by the mass be addressed.

In his 1st Indorsement,⁶ dated May 27, 2009, Chief Justice Puno referred another letter of Valenciano, dated May 13, 2009, to DCA Dujua for appropriate action, as he complained that masses continued to be held at the basement of the QC Hall of Justice.

On March 23, 2010, Valenciano wrote another letter,⁷ praying that rules be promulgated by the Court to put a stop to the holding of Catholic masses, or any other religious rituals, at the QC Hall of Justice and in all other halls of justice in the country.

In its June 22, 2010 Resolution,⁸ the Court noted the March 23, 2010 letter of Valenciano and referred the matter to the Office of the Court Administrator (*OCA*) for evaluation, report and recommendation.

Thus, in its 1st Indorsement,⁹ dated September 6, 2010, the OCA, through then Assistant Court Administrator (*ACA*) Jenny Lind R. Aldecoa-Delorino (now Deputy Court Administrator), referred the letters of Valenciano to the incumbent RTC Executive Judge Fernando T. Sagun, Jr. (*Judge Sagun, Jr.*) and incumbent MeTC Executive Judge Caridad M. Walse-Lutero (*Judge Lutero*).

In his Letter-Comment,¹⁰ dated September 9, 2010, Judge Sagun, Jr. informed the Court that his office had already implemented measures to address Valenciano's complaints. He reported that masses were shortened to

⁵ Id. at 31-33.

⁶ Id. at 3.

⁷ Id. at 34.

⁸ Id. at 6-7.

⁹ Id. at 8.

¹⁰ Id. at 10-12.

a little over thirty (30) minutes; that it was only during special holy days of obligation when the celebration of mass went beyond one (1) o'clock in the afternoon; that the pathways leading to the lavatories were open and could be used without obstruction; that there was never an instance where the actions of court personnel, who were vying to read the epistle during mass, caused back-biting and irritation among themselves; that the water generator had been broken beyond repair and decommissioned since December 2009; and that the court employees prepared for the mass before the day officially started, so that the performance of their official duties in court was not hampered.

In her letter,¹¹ Judge Lutero reported that Catholic masses were being held only during lunch breaks and did not disturb court proceedings; that the basement of the QC Hall of Justice could still be used as waiting area for the public; that court personnel and the public were never physically prevented from reaching the lavatories during mass as there was a clear path from the public offices leading to the comfort rooms; that water service interruptions were caused by maintenance problems and not because the water pump was being shut off during mass; and that the elevators could not be used during mass because elevator attendants took their lunch break from twelve (12) o'clock to one (1) o'clock in the afternoon.

Judge Lutero opined that it is not the conduct of masses in public places which the Constitution prohibited, but the passage of laws or the use of public funds for the purpose of establishing a religion or prohibiting the free exercise thereof. She conveyed the fact that no law or rule had been passed and that no public funds had been appropriated or used to support the celebration of masses. She added that the holding of Catholic masses did not mean that Catholics had better chances of obtaining favorable resolutions from the court.

Accordingly, Judge Lutero recommended that the holding of masses at the basement of the QC Hall of Justice be allowed to continue considering that it was not inimical to the interests of the court employees and the public.

*The OCA Report
and Recommendation*

In its Memorandum,¹² dated August 7, 2014, the OCA believed that the practical inconveniences cited by Valenciano were unfounded. It, thus, recommended that his letter-complaints, dated January 6, 2009, May 13, 2009 and March 23, 2010, be dismissed for lack of merit and that the RTC and MeTC Executive Judges of QC be directed to closely regulate and

¹¹ Id. at 13-16.

¹² Id. at 52-67.

monitor the holding of masses and other religious practices within the premises of the QC Hall of Justice.

The OCA opined that the principle of separation of Church and State, particularly with reference to the Establishment Clause, ought not to be interpreted according to the rigid standards of separation; that the neutrality of the State on religion should be benevolent because religion was an ingrained part of society and played an important role in it; and that the State, therefore, instead of being belligerent (in the case of Strict Separation) or being aloof (in the case of Strict Neutrality) towards religion should instead interact and forbear.¹³

The OCA advanced the view that the standard of Benevolent Neutrality/Accommodation was espoused because the principal religion clauses in our Constitution were not limited to the Establishment Clause, which created a wall between the Church and the State, but was quickly followed by the declaration of the Free Exercise Clause, which protected the right of the people to practice their religion. In effect, the standard of Benevolent Neutrality/Accommodation balanced the interest of the State through the Establishment Clause, and the interest and right of the individual to freely exercise his religion as guaranteed by the Free Exercise Clause.¹⁴

The OCA observed that the present controversy did not involve a national or local law or regulation in conflict with the Free Exercise Clause. On the contrary, Valenciano was merely questioning the propriety of holding religious masses at the basement of the QC Hall of Justice, which was nothing more than an issue of whether the said religious practice could be accommodated or not. It ended up concluding that based on prevailing jurisprudence, as well as the interpretations given to the religion clauses of the 1987 Constitution, there was nothing constitutionally abhorrent in allowing the continuation of the masses.¹⁵

The OCA added that by allowing or accommodating the celebration of Catholic masses within the premises of the QC Hall of Justice, the Court could not be said to have established Roman Catholicism as an official religion or to have endorsed the said religion, for the reason that it also allowed other religious denominations to practice their religion within the courthouses.¹⁶

¹³ Id. at 60.

¹⁴ Id. at 61-62.

¹⁵ Id. at 62.

¹⁶ Id. at 63.

ISSUE

WHETHER THE HOLDING OF MASSES AT THE BASEMENT OF THE QUEZON CITY HALL OF JUSTICE VIOLATES THE CONSTITUTIONAL PRINCIPLE OF SEPARATION OF CHURCH AND STATE AS WELL AS THE CONSTITUTIONAL PROHIBITION AGAINST APPROPRIATION OF PUBLIC MONEY OR PROPERTY FOR THE BENEFIT OF ANY SECT, CHURCH, DENOMINATION, SECTARIAN INSTITUTION, OR SYSTEM OF RELIGION.

The Court's Ruling

The Court agrees with the findings and recommendation of the OCA and denies the prayer of Valenciano that the holding of religious rituals of any of the world's religions in the QC Hall of Justice or any halls of justice all over the country be prohibited.

The Holding of Religious Rituals in the Halls of Justice does not Amount to a Union of Church and State

As earlier stated, Valenciano is against the holding of religious rituals in the halls of justice on the ground that it violates the constitutional provision on the separation of Church and State and the constitutional prohibition against the appropriation of public money or property for the benefit of a sect, church, denomination, or any other system of religion. Indeed, Section 6, Article II of the 1987 Constitution provides:

The separation of Church and State shall be inviolable.¹⁷

The Court once pronounced that "our history, not to speak of the history of mankind, has taught us that the union of church and state is prejudicial to both, for occasions might arise when the state will use the church, and the church the state, as a weapon in the furtherance of their respective ends and aims."¹⁸

Justice Isagani Cruz expounded on this doctrine, viz.:

The rationale of the rule is summed up in the familiar saying, "Strong fences make good neighbors." The idea is to delineate the boundaries between the two institutions and, thus, avoid encroachments by one against the other because of a misunderstanding of the limits of their respective exclusive

¹⁷ Const. (1987), Article II, Sec. 6.

¹⁸ *Aglipay v. Ruiz*, 64 Phil. 201, 205 (1937).

jurisdictions. The demarcation line calls on the entities to “render therefore unto Caesar the things that are Caesar’s and unto God the things that are God’s.”¹⁹

This, notwithstanding, the State still recognizes the inherent right of the people to have some form of belief system, whether such may be belief in a Supreme Being, a certain way of life, or even an outright rejection of religion. Our very own Constitution recognizes the heterogeneity and religiosity of our people as reflected in *Imbong v. Ochoa*,²⁰ as follows:

At the outset, it cannot be denied that we all live in a heterogeneous society. It is made up of people of diverse ethnic, cultural and religious beliefs and backgrounds. History has shown us that our government, in law and in practice, has allowed these various religious, cultural, social and racial groups to thrive in a single society together. It has embraced minority groups and is tolerant towards all – the religious people of different sects and the non-believers. The undisputed fact is that our people generally believe in a deity, whatever they conceived Him to be, and to Whom they called for guidance and enlightenment in crafting our fundamental law. Thus, the preamble of the present Constitution reads:

We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society, and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity, the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.

The Filipino people in "*imploring the aid of Almighty God*" manifested their spirituality innate in our nature and consciousness as a people, shaped by tradition and historical experience. As this is embodied in the preamble, it means that the State recognizes with respect the influence of religion in so far as it instills into the mind the purest principles of morality. Moreover, in recognition of the contributions of religion to society, the 1935, 1973 and 1987 Constitutions contain benevolent and accommodating provisions towards religions such as tax exemption of church property, salary of religious officers in government institutions, and optional religious instructions in public schools. [Emphases supplied]

In *Aglipay v. Ruiz*²¹ (*Aglipay*), the Court acknowledged how religion could serve as a motivating force behind each person’s actions:

¹⁹ Cruz, *Philippine Political Law* (2002), p. 68.

²⁰ 732 Phil. 1 (2014).

²¹ *Supra* note 18.

Religious freedom, however, as a constitutional mandate is not inhibition of profound reverence for religion and is not a denial of its influence in human affairs. Religion as a profession of faith to an active power that binds and elevates man to his Creator is recognized. And, in so far as it instills into the minds the purest principles of morality, its influence is deeply felt and highly appreciated. **When the Filipino people, in the preamble of their Constitution, implored "the aid of *Divine Providence*, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty and democracy," they thereby manifested their intense religious nature and placed unfaltering reliance upon Him who guides the destinies of men and nations.** The elevating influence of religion in human society is recognized here as elsewhere. In fact, certain general concessions are indiscriminately accorded to religious sects and denominations. Our Constitution and laws exempt from taxation properties devoted exclusively to religious purposes (sec. 14, subsec. 3, Art. VI, Constitution of the Philippines and sec. 1, subsec. Ordinance appended thereto; Assessment Law, sec. 344, par [c], Adm. Code) sectarian aid is not prohibited when a priest, preacher, minister or other religious teacher or dignitary as such is assigned to the armed forces or to any penal institution, orphanage or leprosarium xxx. Optional religious instruction in the public schools is by constitutional mandate allowed xxx. Thursday and Friday of Holy Week, Thanksgiving Day, Christmas Day, and Sundays are made legal holidays (sec. 29, Adm. Code) because of the secular idea that their observance is conducive to beneficial moral results. The law allows divorce but punishes polygamy and bigamy; and certain crimes against religious worship are considered crimes against the fundamental laws of the state xxx.²² [Emphasis supplied]

Thus, the right to believe or not to believe has again been enshrined in Section 5, Article III of the 1987 Constitution:

Section 5. xxx. **The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.** xxx.

Free Exercise Clause

Freedom of religion was accorded preferred status by the framers of our fundamental law. And this Court has consistently affirmed this preferred status, well aware that it is "designed to protect the broadest possible liberty of conscience, to allow each man to believe as his conscience directs, to

²² Id. at. 206-207.

profess his beliefs, and to live as he believes he ought to live, consistent with the liberty of others and with the common good.”²³

“The right to religious profession and worship has a two-fold aspect - freedom to believe and freedom to act on one's beliefs. The first is absolute as long as the belief is confined within the realm of thought. The second is subject to regulation where the belief is translated into external acts that affect the public welfare.”²⁴ Justice Isagani A. Cruz explained these two (2) concepts in this wise:

(1) Freedom to Believe

The individual is free to believe (or disbelieve) as he pleases concerning the hereafter. He may indulge his own theories about life and death; worship any god he chooses, or none at all; embrace or reject any religion; acknowledge the divinity of God or of any being that appeals to his reverence; recognize or deny the immortality of his soul - in fact, cherish any religious conviction as he and he alone sees fit. However absurd his beliefs may be to others, even if they be hostile and heretical to the majority, he has full freedom to believe as he pleases. He may not be required to prove his beliefs. He may not be punished for his inability to do so. Religion, after all, is a matter of faith. "Men may believe what they cannot prove." Every one has a right to his beliefs and he may not be called to account because he cannot prove what he believes.

(2) Freedom to Act on One's Beliefs

But where the individual externalizes his beliefs in acts or omissions that affect the public, his freedom to do so becomes subject to the authority of the State. 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. And this is true even if such practices are pursued out of sincere religious conviction and not merely for the purpose of evading the reasonable requirements or prohibitions of the law.

²³ *Islamic Da'wah Council of the Philippines, Inc. v. Executive Secretary*, 453 Phil. 440, 449 (2003).
[Citations omitted]

²⁴ Cruz, *Constitutional Law* (2007), p. 188.

Justice Frankfurter put it succinctly: “The constitutional provision on religious freedom terminated disabilities, it did not create new privileges. It gave religious liberty, not civil immunity. Its essence is freedom from conformity to religious dogma, not freedom from conformity to law because of religious dogma.”²⁵

Allowing religion to flourish is not contrary to the principle of separation of Church and State. In fact, these two principles are in perfect harmony with each other.

The State is aware of the existence of religious movements whose members believe in the divinity of Jose Rizal. Yet, it does not implement measures to suppress the said religious sects. Such inaction or indifference on the part of the State gives meaning to the separation of Church and State, and at the same time, recognizes the religious freedom of the members of these sects to worship their own Supreme Being.

As pointed out by Judge Lutero, “the Roman Catholics express their worship through the holy mass and to stop these would be tantamount to repressing the right to the free exercise of their religion. Our Muslim brethren, who are government employees, are allowed to worship their Allah even during office hours inside their own offices. The Seventh Day Adventists are exempted from rendering Saturday duty because their religion prohibits them from working on a Saturday. Even Christians have been allowed to conduct their own bible studies in their own offices. All these have been allowed in respect of the workers’ right to the free exercise of their religion. xxx”²⁶

Clearly, allowing the citizens to practice their religion is not equivalent to a fusion of Church and State.

No Compelling State Interest

Religious freedom, however, is not absolute. It cannot have its way if there is a compelling state interest. To successfully invoke compelling state interest, it must be demonstrated that the masses in the QC Hall of Justice unduly disrupt the delivery of public services or affect the judges and employees in the performance of their official functions. In *Estrada v. Escritor*,²⁷ the Court expounded on the test as follows:

²⁵ Cruz, *Constitutional Law* (2007), pp. 188-189.

²⁶ *Rollo*, p. 14.

²⁷ 455 Phil. 411, 577-588 (2006).

The "compelling state interest" test is proper where conduct is involved for the whole gamut of human conduct has different effects on the state's interests: some effects may be immediate and short-term while others delayed and far-reaching. A test that would protect the interests of the state in preventing a substantive evil, whether immediate or delayed, is therefore necessary. However, not any interest of the state would suffice to prevail over the right to religious freedom as this is a fundamental right that enjoys a preferred position in the hierarchy of rights - "the most inalienable and sacred of all human rights", in the words of Jefferson. This right is sacred for an invocation of the Free Exercise Clause is an appeal to a higher sovereignty. The entire constitutional order of limited government is premised upon an acknowledgment of such higher sovereignty, thus the Filipinos implore the "aid of Almighty God in order to build a just and humane society and establish a government." As held in *Sherbert*, **only the gravest abuses, endangering paramount interests can limit this fundamental right.** A mere balancing of interests which balances a right with just a colorable state interest is therefore not appropriate. Instead, **only a compelling interest of the state can prevail over the fundamental right to religious liberty.** The test requires the state to carry a heavy burden, a compelling one, for to do otherwise would allow the state to batter religion, especially the less powerful ones until they are destroyed. In determining which shall prevail between the state's interest and religious liberty, reasonableness shall be the guide. The "compelling state interest" serves the purpose of revering religious liberty while at the same time affording protection to the paramount interests of the state. This was the test used in *Sherbert* which involved conduct, i.e. refusal to work on Saturdays. In the end, the "compelling state interest" test, by upholding the paramount interests of the state, seeks to protect the very state, without which, religious liberty will not be preserved.¹³⁷ [Citations omitted] [Emphases supplied]

As reported by the Executive Judges of Quezon City, the masses were being conducted only during noon breaks and were not disruptive of public services. The court proceedings were not being distracted or interrupted and that the performance of the judiciary employees were not being adversely affected. Moreover, no Civil Service rules were being violated. As there has been no detrimental effect on the public service or prejudice to the State, there is simply no state interest compelling enough to prohibit the exercise of religious freedom in the halls of justice.

In fact, the Civil Service Commission (CSC) was more lenient or tolerant. On November 13, 1981, the CSC came out with Resolution No. 81-1277, which provided, among others, that "during Friday, the Muslim pray day, Muslims are excused from work from 10:00 o'clock in the morning to

2:00 o'clock in the afternoon." The Court struck this down²⁸ as not sanctioned by the law. It wrote:

To allow the Muslim employees in the Judiciary to be excused from work from 10:00 a.m. to 2:00 p.m. every Friday (Muslim Prayer Day) during the entire calendar year would mean a diminution of the prescribed government working hours. For then, they would be rendering service twelve (12) hours less than that required by the civil service rules for each month. Further, this would encourage other religious denominations to request for similar treatment.

The performance of religious practices, whether by the Muslim employees or those belonging to other religious denominations, should not prejudice the courts and the public. Indeed, the exercise of religious freedom does not exempt anyone from compliance with reasonable requirements of the law, including civil service laws.

Accommodation, Not Establishment of Religion

In order to give life to the constitutional right of freedom of religion, the State adopts a policy of accommodation. *Accommodation* is a recognition of the reality that some governmental measures may not be imposed on a certain portion of the population for the reason that these measures are contrary to their religious beliefs. As long as it can be shown that the exercise of the right does not impair the public welfare, the attempt of the State to regulate or prohibit such right would be an unconstitutional encroachment.²⁹

In *Estrada v. Escritor*,³⁰ the Court adopted a policy of benevolent neutrality:

With religion looked upon with benevolence and not hostility, **benevolent neutrality allows accommodation of religion** under certain circumstances. **Accommodations are government policies that take religion specifically into account not to promote the government's favored form of religion, but to allow individuals and groups to exercise their religion without hindrance.** Their purpose or effect therefore is to remove a burden on, or facilitate the exercise of, a person's or institution's religion. As Justice Brennan explained, the "government [may] take religion into account . . . to exempt, when possible, from generally applicable governmental regulation individuals whose religious beliefs and practices would otherwise thereby be infringed, or to create without state involvement an atmosphere in which voluntary religious exercise may flourish." [Emphases supplied]

²⁸ *Re: Request of Muslim Employees in the Different Courts in Iligan City (Re: Office Hours)*, 514 Phil. 31, 40 (2005).

²⁹ See Cruz, *Constitutional Law* (2007), p. 189.

³⁰ *Estrada v. Escritor*, supra note 27, at 522-523.

In *Victoriano v. Elizalde Rope Workers Union*,³¹ the Court upheld the exemption of members of *Iglesia ni Cristo* from the coverage of a closed shop agreement between their employer and a union, because it would violate the teaching of their church not to affiliate with a labor organization.

In *Ebralinag v. Division Superintendent of Schools of Cebu*,³² the petitioners, who were members of the *Jehovah's Witnesses*, refused to salute the flag, sing the national anthem, and recite the patriotic pledge for it is their belief that those were acts of worship or religious devotion, which they could not conscientiously give to anyone or anything except God. The Court accommodated them and granted them an exemption from observing the flag ceremony out of respect for their religious beliefs.

Further, several laws have been enacted to accommodate religion. The Revised Administrative Code of 1987 has declared Maundy Thursday, Good Friday, and Christmas Day as regular holidays. Republic Act (R.A.) No. 9177 proclaimed the first day of *Shawwal*, the tenth month of the Islamic Calendar, a national holiday for the observance of *Eidul Fitr* (the end of Ramadan). R.A. No. 9849 declared the tenth day of *Zhul Hijja*, the twelfth month of the Islamic Calendar, a national holiday for the observance of *Eidul Adha*. Presidential Decree (P.D.) No. 1083, otherwise known as the Code of Muslim Personal Laws of the Philippines, expressly allows a Filipino Muslim to have more than one (1) wife and exempts him from the crime of bigamy punishable under Revised Penal Code (RPC). The same Code allows Muslims to have divorce.³³

As to Muslims in government offices, Section 3 of P.D. No. 291, as amended by P.D. No. 322, provides:

Sec. 3. (a) During the fasting season on the month of Ramadan, all Muslim employees in the national government, government-owned or controlled corporations, provinces, cities, municipalities and other instrumentalities shall observe office hours from seven-thirty in the morning (7:30 a.m.) to three-thirty in the afternoon (3:30 p.m.) without lunch break or coffee breaks, and that there shall be no diminution of salary or wages, provided, that the employee who is not fasting is not entitled to the benefit of this provision.

Pursuant thereto, the CSC promulgated Resolution No. 81-1277, dated November 13, 1981, which reads in part:

³¹ 158 Phil. 60 (1974).

³² G.R. No. 95770, March 1, 1993, 219 SCRA 256.

³³ *Rollo*, p. 61.

2. During "Ramadan" the Fasting month (30 days) of the Muslims, the Civil Service official time of 8 o'clock to 12 o'clock and 1 o'clock to 5 o'clock is hereby modified to 7:30 A.M. to 3:30 P.M. without noon break and the difference of 2 hours is not counted as undertime.

Following the decree, in *Re: Request of Muslim Employees in the Different Courts in Iligan City (Re: Office Hours)*,³⁴ the Court recognized that the observance of Ramadan as integral to the Islamic faith and allowed *Muslim* employees in the Judiciary to hold flexible office hours from 7:30 o'clock in the morning to 3:30 o'clock in the afternoon without any break during the period. This is a clear case of accommodation because Section 5, Rule XVII of the Omnibus Rules Implementing Book V of E.O. No. 292, enjoins all civil servants, of whatever religious denomination, to render public service of no less than eight (8) hours a day or forty (40) hours a week.

Non-Establishment Clause

On the opposite side of the spectrum is the constitutional mandate that "*no law shall be made respecting an establishment of religion,*"³⁵ otherwise known as the non-establishment clause. Indeed, there is a thin line between accommodation and establishment, which makes it even more imperative to understand each of these concepts by placing them in the Filipino society's perspective.

The non-establishment clause reinforces the wall of separation between Church and State. It simply means that the State cannot set up a Church; nor pass laws which aid one religion, aid all religion, or prefer one religion over another nor force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion; that the state cannot punish a person for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance; that no tax in any amount, large or small, can be levied to support any religious activity or institution whatever they may be called or whatever form they may adopt or teach or practice religion; that the state cannot openly or secretly participate in the affairs of any religious organization or group and vice versa.³⁶ Its minimal sense is that the state cannot establish or sponsor an official religion.³⁷

³⁴ Supra note 28.

³⁵ Section 5, Article III, 1987 Constitution.

³⁶ *Everson v. Board of Education*, 330 U.S. 1.

³⁷ Bernas, the 1987 Constitution of the Philippines, 2009 Ed., p. 345.

In the same breath that the establishment clause restricts what the government can do with religion, it also limits what religious sects can or cannot do. They can neither cause the government to adopt their particular doctrines as policy for everyone, nor can they cause the government to restrict other groups. To do so, in simple terms, would cause the State to adhere to a particular religion and, thus, establish a state religion.³⁸

Father Bernas further elaborated on this matter, as follows:

“In effect, what non-establishment calls for is government neutrality in religious matters. Such government neutrality may be summarized in four general propositions: (1) Government must not prefer one religion over another or religion over irreligion because such preference would violate voluntarism and breed dissension; (2) Government funds must not be applied to religious purposes because this too would violate voluntarism and breed interfaith dissension; (3) Government action must not aid religion because this too can violate voluntarism and breed interfaith dissension; [and] (4) Government action must not result in excessive entanglement with religion because this too can violate voluntarism and breed interfaith dissension.”³⁹

Establishment entails a positive action on the part of the State. Accommodation, on the other hand, is passive. In the former, the State becomes involved through the use of government resources with the primary intention of setting up a state religion. In the latter, the State, without being entangled, merely gives consideration to its citizens who want to freely exercise their religion.

In a September 12, 2003 Memorandum for Chief Justice Hilario G. Davide, Jr., the Office of the Chief Attorney recommended to deny, on constitutional grounds, the request of Rev. Fr. Carlo M. Ilagan to hold a one-day vigil in honor of the Our Lady of Caysasay within the premises of the Court. Such controversy must be distinguished from the present issue in that with respect to the former, a Catholic priest was the one who requested for the vigil. Moreover, in that case, the vigil would take one (1) whole working day; whereas in this case, the masses are held at the initiative of Catholic employees and only during the thirty-minute lunch break.

Guided by the foregoing, it is our considered view that the holding of Catholic masses at the basement of the QC Hall of Justice *is not a case of establishment, but merely accommodation*. *First*, there is no law, ordinance or circular issued by any duly constitutive authorities expressly mandating that judiciary employees attend the Catholic masses at the basement. *Second*, when judiciary employees attend the masses to profess their faith, it is at their

³⁸ *Imbong v. Ochoa*, supra note 20.

³⁹ Bernas, the 1987 Constitution of the Philippines, 2009 Ed., p. 346.

own initiative as they are there on their own free will and volition, without any coercion from the judges or administrative officers. *Third*, no government funds are being spent because the lightings and airconditioning continue to be operational even if there are no religious rituals there. *Fourth*, the basement has neither been converted into a Roman Catholic chapel nor has it been permanently appropriated for the exclusive use of its faithful. *Fifth*, the allowance of the masses has not prejudiced other religions.

*No Appropriation of Public
Money or Property for the
Benefit of any Church*

Section 29 (2), Article VI of the 1987 Constitution provides, “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, or 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.”

The word “apply” means “to use or employ for a particular purpose.”⁴⁰ “Appropriate” means “to prescribe a particular use for particular moneys or to designate or destine a fund or property for a distinct use, or for the payment of a particular demand.”⁴¹

Under the principle of *noscitur a sociis*, where a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its correct construction may be made clear and specific by considering the company of words in which it is found or with which it is associated. This is because a word or phrase in a statute is always used in association with other words or phrases, and its meaning may, thus, be modified or restricted by the latter. The particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible.⁴²

Thus, the words “pay” and “employ” should be understood to mean that what is prohibited is the use of public money or property for the sole purpose of benefiting or supporting any church. The prohibition contemplates a scenario where the appropriation is primarily intended for the furtherance of a particular church.

⁴⁰ Black’s Law Dictionary (Fifth Ed.), p. 91.

⁴¹ Black’s Law Dictionary (Fifth Ed.), p. 93.

⁴² *Chavez v. Judicial and Bar Council*, 691 Phil. 173, 200 (2012).

It has also been held that the aforesaid constitutional provision “does not inhibit the use of public property for religious purposes when the religious character of such use is merely incidental to a temporary use which is available indiscriminately to the public in general.” Hence, a public street may be used for a religious procession even as it is available for a civic parade, in the same way that a public plaza is not barred to a religious rally if it may also be used for a political assemblage.⁴³

In relation thereto, the phrase “directly or indirectly” refers to the manner of appropriation of public money or property, not as to whether a particular act involves a direct or a mere incidental benefit to any church. Otherwise, the framers of the Constitution would have placed it before “use, benefit or support” to describe the same. Even the exception to the same provision bolsters this interpretation. The exception contemplates a situation wherein public funds are paid to a priest, preacher, minister, or other religious teacher, or dignitary because they rendered service in the armed forces, or to any penal institution, or government orphanage or leprosarium. That a priest belongs to a particular church and the latter may have benefited from the money he received is of no moment, for the purpose of the payment of public funds is merely to compensate the priest for services rendered and for which other persons, who will perform the same services will also be compensated in the same manner.

Ut magis valeat quam pereat. The Constitution is to be interpreted as a whole.⁴⁴ As such, the foregoing interpretation finds support in the Establishment Clause, which is as clear as daylight in stating that what is proscribed is the passage of any law which tends to establish a religion, not merely to accommodate the free exercise thereof.

The Constitution even grants tax exemption to properties actually, directly and exclusively devoted to religious purposes.⁴⁵ Certainly, this benefits the religious sects for a portion of what could have been collected for the benefit of the public is surrendered in their favor.

In *Manosca v. CA*,⁴⁶ a parcel of land located in Taguig was determined by the National Historical Institute to be the birthsite of Felix Y. Manalo, the founder of *Iglesia ni Cristo*. The Republic then sought to expropriate the said property. The exercise of the power of eminent domain was questioned on the ground that it would only benefit members of *Iglesia ni Cristo*. The Court upheld the legality of the expropriation, *viz.*:

⁴³ Cruz Philippine Political Law (2002), pp. 174-175.

⁴⁴ *Francisco v. House of Representatives*, 460 Phil. 830, 886 (2003).

⁴⁵ Section 28 (3), Art. VI, 1987 Constitution.

⁴⁶ 322 Phil. 442 (1996).

The practical reality that greater benefit may be derived by members of the *Iglesia ni Cristo* than by most others could well be true but such a peculiar advantage still remains to be **merely incidental and secondary in nature.**⁴⁷ [Emphasis supplied]

Again, in *Aglipay*, the issuing and selling of postage stamps commemorative of the Thirty-third International Eucharistic Congress was assailed on the ground that it violated the constitutional prohibition against the appropriation of public money or property for the benefit of any church. In ruling that there was no such violation, the Court held:

It is obvious that while the issuance and sale of the stamps in question may be said to be inseparably linked with an event of a religious character, the resulting propaganda, if any, received by the Roman Catholic Church, was not the aim and purpose of the Government. We are of the opinion that the Government should not be embarrassed in its activities simply because of incidental results, more or less religious in character, if the purpose had in view is one which could legitimately be undertaken by appropriate legislation. **The main purpose should not be frustrated by its subordination to mere incidental results not contemplated.**⁴⁸ [Emphasis supplied]

Here, the basement of the QC Hall of Justice is not appropriated, applied or employed for the sole purpose of supporting the Roman Catholics.

Further, it has not been converted into a Roman Catholic chapel for the exclusive use of its faithful contrary to the claim of Valenciano. Judge Maceren reported that the basement is also being used as a public waiting area for most of the day and a meeting place for different employee organizations. The use of the area for holding masses is limited to lunch break period from twelve (12) o'clock to one (1) o'clock in the afternoon. Further, Judge Sagun, Jr. related that masses run for just a little over thirty (30) minutes. It is, therefore, clear that no undue religious bias is being committed when the subject basement is allowed to be temporarily used by the Catholics to celebrate mass, as the same area can be used by other groups of people and for other purposes.⁴⁹ Thus, the basement of the QC Hall of Justice has remained to be a public property devoted for public use because the holding of Catholic masses therein is a mere incidental consequence of its primary purpose.

Conclusion

Directing the Executive Judges of the RTC and MeTC to regulate and closely monitor the holding of masses and other religious practices within the

⁴⁷ Id. at 453.

⁴⁸ Supra note 18, at 209-210.

⁴⁹ *Rollo*, p. 63.

courts does not promote excessive collaboration between courts and various religions. On the contrary, this is necessary to ensure that there would be no excessive entanglement.

To disallow the holding of religious rituals within halls of justice would set a dangerous precedent and commence a domino effect. Strict separation, rather than benevolent neutrality/accommodation, would be the norm. Thus, the establishment of Shari'a courts, the National Commission for Muslim Filipinos, and the exception of Muslims from the provisions of the RPC relative to the crime of bigamy would all be rendered nugatory because of strict separation. The exception of members of *Iglesia ni Cristo* from joining a union or the non-compulsion recognized in favor of members of the Jehovah's Witnesses from doing certain gestures during the flag ceremony, will all go down the drain simply because we insist on strict separation.

That the holding of masses at the basement of the QC Hall of Justice may offend non-Catholics is no reason to proscribe it. Our Constitution ensures and mandates an unconditional tolerance, without regard to whether those who seek to profess their faith belong to the majority or to the minority. It is emphatic in saying that "the free exercise and enjoyment of religious profession and worship shall be without discrimination or preference." Otherwise, accommodation or tolerance would just be mere lip service.

One cannot espouse that the constitutional freedom of religion ensures tolerance, but, in reality, refuses to practice what he preaches. One cannot ask for tolerance when he refuses to do the same for others.

In fine, the Court denies the plea that the holding of Catholic masses at the basement of the QC Hall of Justice be prohibited because the said practice does not violate the constitutional principle of separation of Church and State and the constitutional prohibition against appropriation of public money or property for the benefit of a sect, church, denomination, or any other system of religion.

WHEREFORE, the Court resolves to:

1. **NOTE** the letter-complaints of Mr. Tony Q. Valenciano, dated January 6, 2009, May 13, 2009, and March 23, 2010;
2. **NOTE** the 1st Indorsement, dated September 21, 2010, by the Office on Halls of Justice, containing photocopies and certified photocopies of previous actions made relative to the complaint;

3. **NOTE** the Letter-Comment, dated September 9, 2010, of Quezon City Regional Trial Court Executive Judge Fernando T. Sagun, Jr.;
4. **NOTE** the undated Letter-Comment of Quezon City Metropolitan Trial Court Executive Judge Caridad M. Walse-Lutero;
5. **DENY** the prayer of Tony Q. Valenciano to prohibit the holding of religious rituals in the QC Hall of Justice and in all halls of justice in the country; and
6. **DIRECT** the Executive Judges of Quezon City to **REGULATE** and **CLOSELY MONITOR** the holding of masses and other religious practices within the Quezon City Hall of Justice by ensuring, among others, that:
 - (a) it does not disturb or interrupt court proceedings;
 - (b) it does not adversely affect and interrupt the delivery of public service; and
 - (c) it does not unduly inconvenience the public.

In no case shall a particular part of a public building be a permanent place for worship for the benefit of any and all religious groups. There shall also be no permanent display of religious icons in all halls of justice in the country. In case of religious rituals, religious icons and images may be displayed but their presentation is limited only during the celebration of such activities so as not to offend the sensibilities of members of other religious denominations or the non-religious public. After any religious affair, the icons and images shall be hidden or concealed from public view.

The disposition in this administrative matter shall apply to all halls of justice in the country. Other churches, religious denominations or sects are entitled to the same rights, privileges, and practices in every hall of justice. In other buildings not owned or controlled by the Judiciary, the Executive Judges should coordinate and seek approval of the building owners/administrators accommodating their courts.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:

[Handwritten signature]

MARIA LOURDES P. A. SERENO
Chief Justice

[Handwritten signature]

ANTONIO T. CARPIO
Associate Justice

[Handwritten signature]
PRESBITERO J. VELASCO, JR.
Associate Justice

Please see ^{my} separate Concurring opinion:

Teresito Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

[Handwritten signature]
DIOSDADO M. PERALTA
Associate Justice

[Handwritten signature]
LUCAS P. BERSAMIN
Associate Justice

[Handwritten signature]
MARIANO C. DEL CASTILLO
Associate Justice

[Handwritten signature]
BIENVENIDO L. REYES
Associate Justice

[Handwritten signature]
ESTELA M. PERLAS-BERNABE
Associate Justice

I dissent. See separate opinion

[Handwritten signature]
MARVIC M.V.F. LEONEN
Associate Justice

[Handwritten signature] see
FRANCIS H. JARDELEZA *separate opinion*
Associate Justice

[Handwritten signature] I concur & separate opinion of J. Jardeleza
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice