

Religion and the Secular State: National Report for the Philippines

I. THE SOCIAL CONTEXT

According to census data from August of 2007, the population of the Philippines totals 88.57 million people¹ and is divided among the following religions:²

Roman Catholic	81%
Protestant	7.3%
<i>Iglesia ni Kristo</i> (“Church of Christ”)	2.3%
Philippine Independence Church (“Aglipayan”)	2.0%
Muslim	5.1%
Buddhist	0.1%

The predominantly Roman Catholic population is spread over most of the archipelago. However, the Muslims, which form the largest non-Christian group, are concentrated on the southernmost island of Mindanao (the island closest to Indonesia and Malaysia). The other Christian groups, specifically the Protestants, the *Iglesia ni Kristo*, and the Philippine Independence Church, comprise another 11.6 percent of the population, more. The *Iglesia ni Kristo* is an indigenous Christian church established in 1913 by a local preacher.³ The Philippine Independence Church (*Iglesia Filipina Independiente*) was born during the Philippine Revolution for independence from Spain and was formally created in 1902 by a federation of Filipino labor unions.⁴ The Pentecostal or charismatic movements has flourished among Christian Filipinos. A survey shows that 4 out of 10 Catholics, and 7 out of 10 Protestants, identify themselves as either Pentecostal or charismatic.⁵ The two largest charismatic groups are the El Shaddai⁶ and the Jesus is Lord Movement.⁷ There are also indigenous peoples in the Philippines, the “non-Christian tribes” in the now-obsolete category formerly used by the national census office, which includes 110 ethno-linguistic groups⁸ comprising some 8 million people.⁹

II. THEORETICAL AND SCHOLARLY CONTEXT

The first and most predominant model is the strict separation of church and state, enshrined in *all* the Constitutions adopted in the Philippines including the Malolos Constitution of 1899 that was adopted by the revolutionary government upon gaining independence from Spain, the “organic acts” adopted during the period of American

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1. National Statistics Office, Republic of the Philippines, *Quick Statistics*, <http://www.census.gov.ph/data/quickstat/index.html> (31 March 2010).

2. Pew Forum on Religion and Public Life, *Religious Demographic Profile (Philippines)*, <http://pewforum.org/world-affairs/countries/?CountryID=163> (2 February 2010).

3. See <http://www.gemnet.tv/index.html>.

4. See <http://www.ifi.ph/main.htm>.

5. *Supra*, at n. 2.

6. *El Shaddai Online*, <http://elshaddai-dwxippfi.webs.com> (31 March 2010).

7. *Jesus is Lord Church Online*, <http://jilworldwide.org/v2/index.php> (31 March 2010).

8. National Commission on Indigenous Peoples, Republic of the Philippines, *IP Group Profiles*, <http://www.ncip.gov.ph/ethno.php> (31 March 2010).

9. *Id.*, at http://www.ncip.gov.ph/ethno_region.php (31 March 2010).

colonialism, and the three constitutions that have governed the country since its independence from the United States.

The Supreme Court made its strongest statement on the separation of church and state in 1978 in *Pamil v. Teleron*, in which the Court could not muster enough votes to strike down a 1917 rule that barred ecclesiastics from holding public office – whether appointive or elective—in municipal governments. This rule was clearly incompatible with the “no religious test” clause (*supra*, Question 3.b), yet the Court warned about the “diabolical union of church and state” that was the cornerstone of the prohibition, tracing its provenance back to the revolution for independence against Spain in 1896.¹⁰

The second model is the union of church and state. Today the formal primacy of strict separation is thinly venerated over in light of the pressure to at least acknowledge that the church plays a vital role in the secular life of the nation. This was historically expressed in the aborted attempt to establish Roman Catholicism as the official state religion under the Malolos Constitution and also in the establishment of an independent Christian church under the Filipino (as distinguished from the Spanish) clergy during the time of the revolution (today known as the Philippine Independent Church).

Yet, even today, the Roman Catholic clergy remains a force in the politics of the Philippines, for example: Manila Archbishop Jaime Cardinal Sin was a key figure in the two “People Power” uprisings, that of 1986, which ousted President Ferdinand Marcos, and that of 2001, which ousted President Joseph Estrada.

The post-Marcos Constitution of 1987 was drafted by a 50-person commission appointed by President Corazon Aquino, which included two Catholic priests, one Catholic nun, one Protestant minister, and one lay leader (the founder of the Opus Dei in the Philippines).

The well-organized Christian, non-Catholic groups have also flexed their political muscle and endorsed electoral candidates. The *Iglesia ni Kristo* is known to adopt “official” candidates and has delivered a solid vote for these candidates.¹¹ The El Shaddai too have adopted official candidates. This practice was challenged in the courts in *Velarde v. Society for Social Justice*,¹² but the case was thrown out on procedural grounds and never resolved on the merits.

The Philippines is also beset by two armed rebel groups, both of which have religious components. The first is a Maoist rebellion led by the Communist Party of the Philippines,¹³ which has formed the group Christians for National Liberation along the lines of liberation theology.¹⁴

The second is an Islamic separatist movement currently led by the Moro Islamic Liberation Front, which seeks a separate Muslim state for the Bangsa Moro People.¹⁵

The third approach is the legalistic view that applies the “state-action requirement” and holds that the separation doctrine is a constraint solely upon the state (to stop it from

10. *Pamil v. Teleron*, G.R. No. 34854, 20 November 1978.

11. Social Weather Stations, *Basic Results of the SWS Exit Poll for the 1998 Presidential Elections*, <http://www.sws.org.ph/may98-2.htm> (31 March 2010).

12. *Velarde v. Social Justice Society*, G.R. No. 159357, 28 April 2004.

13. “Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines,” *Sulong CARHRIHL*, 16 March 1998, at <http://www.sulongnetwork.ph/resources.htm> (31 March 2010).

14. Kathleen Nadeau, *Liberation Theology in the Philippines: Faith in a Revolution* (Praeger Publishers, 2002).

15. *Abbas v. Commission on Elections*, G.R. No. 89631, 19 November 1989 (upholding the 1976 Tripoli Agreement between the Philippine Government and Organization of the Islamic Conference in behalf of the Moro National Liberation Front); *Province of North Cotabato v. Peace Panel on Ancestral Domain*, G.R. No. 183591, 14 October 2008 (striking down the Memorandum of Agreement-Ancestral Domain between the Philippine Government and the Moro Islamic Liberation Front).

interfering with worship) and not upon the church (to stop it from interfering with the secular matters). This approach was expressed best in a recent statement by the Catholic Bishops' Conference of the Philippines. On 8 December 2009, in preparation for the presidential elections of May of 2010, the CBCP issued its *Catechism on Family and Life for the 2010 Elections*, urging the Catholic voters to oppose "artificial" contraceptives that were being promoted by a Reproductive Health bill pending in Congress, and said:

The separation of Church and State *prohibits the State* from interfering in Church matters, and *prohibits the State* from having a State religion. It does not imply a division between belief and public actions, between moral principles and political choices. In fact, the freedom of religion upheld by our Constitution protects the right of believers and religious groups *to practice their faith and act on their values in public life*.

The Constitution guarantees the right of each citizen to exercise his or her religion. Catholics who bring their moral convictions into public life do not threaten democracy or pluralism but rather enrich the nation and its political life.

Every Catholic is both a faithful of the Church and a citizen of our beloved Philippines. The exercise of this faithful citizenship means that *when they go to the polls to vote they should not leave God outside* (emphases supplied).¹⁶

III. CONSTITUTIONAL CONTEXT

A. Political History with Regard to the Relations between State and Religion

Spanish colonial period (1565-1898). The Philippines was "discovered" by Spain in 1521 and became a Spanish colony in 1565. The revolution for independence erupted in 1896, and a new republic was proclaimed in June 1898. The conquest of the Philippines was seen as part of Spain's Catholic mission "to serve God in our Kingdom,"

... that the *indios* may be instructed in the Sacred Catholic Faith and the evangelical law, and in order that they may forget the blunders of their ancient rites and ceremonies to the end that they may live in harmony and in a civilized manner¹⁷

Because the Philippines were located so far from the motherland, the colonial government also had to rely heavily on the religious authorities, who converted the natives to Catholicism and governed through a network of parishes and monastic orders. The proselytizing was so successful that by the time the Americans arrived at the turn of the last century, 91.5 percent of Filipinos were Christian and *all* of them were Roman Catholic. There was an explicit union of church and state, a union so pronounced that the revolution for independence was animated by both anti-colonial and anti-clerical ("anti-monastic") grievances.

Revolutionary Period 1896-99. The Catholic influence was so strong that the resulting

16. Catholic Bishops' Conference of the Philippines, *Catechism on Family and Life for the 2010 Elections*, 27 December 2009, <http://www.cbcpnews.com/?q=node/12037> (31 March 2010).

17. *Rubi v. Provincial Board*, G.R. L-14078, 7 March 1919 (on the curtailment of rights of indigenous peoples, then referred to as "non-Christian tribes").

Malolos Constitution still proclaimed the “Roman Catholic Apostolic religion [as] the religion of the state”¹⁸ and merely tolerated “other cults” so long as they were “exercised privately” and did not “endanger the security of the State.”¹⁹

The separation of church and state was finally adopted – in a meeting ironically held inside a church – only by way of amendment, voting for which was twice caught in a deadlock and the tie had to be broken by the chairman: “The State recognizes the freedom and equality of all religions, as well as the separation of the Church and the State.” Even more telling, however, the separation clause was immediately suspended – by motion of its own adherents—in order to preserve unity in the face of the impending war with the United States.²⁰

Philippine-American War (1898-1902). The Spanish American War broke out in February 1898 with the sinking of USS Maine, and in May 1898, the American Admiral George Dewey defeated the Spanish armada in the Battle of Manila Bay. By December 1898, the United States acquired the Philippines from Spain under the Treaty of Paris, which provided “[t]he inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of religion.”²¹

U.S. Colonial Period (1898-1946). The Americans governed its new colony via successive “organic acts” adopted by the U.S. Congress, all of which uniformly provided for the secular state using the language of the American Bill of Rights.

The Philippine Bill of 1902 stated:

That no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.²²

The Jones Law of 1916 reiterated these verbatim, and added the following: ... and no religious test shall be required for the exercise of civil or political rights. No Public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit or support of any priest, preacher, minister, or other religious teachers or dignitary as such.²³

In the Tydings-McDuffie Law of 1934, which would eventually lead to independence for the Philippines, the following was added:

Absolute toleration of religious sentiment shall be secured and no inhabitant or religious organization shall be molested in person or property on account of religious belief or mode of worship.²⁴

18. MALOLOS CONSTITUTION (1899), art. V, cited in Cesar A. Majul, *The Political and Constitutional Ideas of the Philippine Revolution* (1967), 137.

19. MALOLOS CONST. (1899), art. VI.

20. Cesar A. Majul, *The Political and Constitutional Ideas of the Philippine Revolution* (1967), 142–45 (“To establish openly the separation of Church and State during these difficult times ... may give cause for the withdrawal of the supporters of religion.”).

21. Treaty of Peace between Spain and the United States (10 December 1898), Art X.

22. Philippine Bill of 1 July 1902, sec. 5.

23. Jones Law of 1916, sec. 3.

24. Act No. 127 (1934), sec. 2(a).

Significantly, the American census of 1903 classified all Filipinos as either “civilized” and “wild” people. The civilized “were practically all adherents of the Catholic Church by 1903 Census definitions” (constituting 91 percent of the population) while “wild people” referred to “those who were Mohammedan in religion and were well known in the islands as *Moros*” (constituting 8.5 percent).²⁵ Indigenous peoples were classified as “non-Christian tribes,” although the Supreme Court explained it had less to do with their religion and more with their level of cultural sophistication.²⁶ This historical anomaly has since been corrected in the 1987 Constitution, which recognizes the place of indigenous cultural communities, and the Indigenous Peoples’ Rights Act.²⁷

An Independent Republic (1946-present). There have been three constitutions that have governed the republic: the 1935 Constitution adopted under American tutelage and under which the country gained independence from the United States; the 1973 Constitution adopted under Marcos’s dictatorship; and the 1987 Constitution adopted under Corazon Aquino and under the country is currently governed today. The constitutional separation of church and state has been preserved under all these constitutions and is most expansively expressed in the current Constitution of 1987.²⁸

B. *Current Constitutional Provisions and Principles Governing the Relations between State and Religion*

The Philippines follows the American model of church-state separation and has adopted language and doctrine along the lines of free exercise and establishment clauses. The 1987 Constitution begins with directive clauses called the Declaration of Principles and State Policies, which proclaims the following in unmistakable terms: “The separation of Church and State shall be inviolable.”²⁹ The separation is then secured through the Bill of Rights using language that tracks the First Amendment:

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.³⁰

The Philippine Supreme Court has in several decisions bodily lifted the *Lemon v. Kurtzman*³¹ test for the establishment clause. In the portion relating to legislative power, the following establishment clause is further applied:

No public money or property shall be appropriated, applied, paid, or

25. National Statistics Office, *Centennial Quick Stat*, <http://www.census.gov.ph/data/pressrelease/cent-qs.html> (31 March 2010).

26. *Rubi v. Provincial Board*, G.R. L-14078, 7 March 1919; *People v. Cayat*, G.R. L-45987, 5 May 1939.

27. Rep. Act No. 8371 (1997), affirmed by the Supreme Court in *Cruz v. Secretary of Natural Resources*, G.R. 135385, 6 December 2000.

28. See *supra* Section III B.

29. CONST. (1987), art. II, sec. 6.

30. CONST. (1987), art. III, sec. 5.

31. 403 U.S. 602 (1971). See *Victoriano v. Elizalde Rope Workers Union*, 59 SCRA 54 (1974). It cited *Board of Education v. Allen*, 392 US 236 (1968), in saying that “in order to withstand the strictures of constitutional prohibition, [the statute] must have a secular legislative purpose and a primary effect that neither advances nor inhibits religion.” See also *Aglipay v. Ruiz*, 64 Phil 201 (1937); *Basa, et al. v. Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas*, 61 SCRA 93 (1974); *Anucension v. National Labor Union, et al.*, 80 SCRA 350 (1977); *Gonzales, et al. v. Central Azucarera de Tarlac Labor Union*, 139 SCRA 30 (1985).

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.³²

Charitable institutions, churches and parsonages or convents [and] mosques, ... and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.³³

Finally, in the article regulating education the clause on religious instruction says:

At the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools within the regular class hours by instructors designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the Government.³⁴

C. *Religion and Religion-State Relations Specifically Addressed in the Constitution*

Yes, church-state relations are explicitly addressed and religious freedom is explicitly protected. For more information, please see the discussion above.

D. *Preferred or Privileged Religion or Group of Religions*

No, there is no constitutionally preferred or privileged religion. However, there are explicit concessions to certain religions. For more information, please see the discussion above. The Constitution has officially recognized the applicability of shari'ah laws and the jurisdiction of shari'ah courts. In response to the Islamic rebellion, the government has made concessions to the claims of the Islamic minority in Mindanao. The main concession are, however, political and geographic.

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.³⁵

The constitution then expressly carves out exceptions to the principle of state neutrality to religion, in favor of the Muslim minority:

The Congress shall enact an organic act for each autonomous region
The organic act shall define the basic structure of government [and] shall likewise provide for *special courts with personal, family, and property law*

32. CONST. (1987), art. VI, sec. 29.2.

33. CONST. (1987), art. VI, sec. 29.3.

34. CONST. (1987), art. XIV, sec. 3.3.

35. CONST. (1987), art. X, sec. 15.

jurisdiction consistent with the provisions of this Constitution and national laws (emphasis supplied).

This was implemented through a Code of Muslim Personal Laws of the Philippines³⁶ and Shari'ah courts³⁷ that provide personal jurisdiction of laws and courts based on religion.

Several religious holidays are recognized as official holidays for the country: Maundy Thursday, Good Friday, All Saints Day, Christmas Day and New Year's Day, plus one Muslim holiday, *Eidul Fitr*.³⁸

By way of comparison, the following are the other, purely secular holidays: Bataan Day (a historic date during the Japanese invasion in World War II), Labor Day, Independence Day, National Heroes' Day, Ninoy Aquino Day, Bonifacio Day and Rizal Day, the last three to remember heroes during the Marcos and the Spanish regimes.³⁹

E. *Reference to Religion as Foundation or Source of State Law*

None. The Declaration of Principles and State Policies explicitly adopts the separation doctrine. Note, however, that the Preamble of the Constitution expressly refers to "Almighty God": "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 ... do ordain and promulgate this Constitution."

Also, the Supreme Court itself has 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 fulfillment of Your greater glory. Amen.

This Prayer is supposed to be ecumenical ("finalized after patient and repeated consultations with major religious groups in the country: Catholic, Protestant, Muslim, Born-again and others"),⁴⁰ and was supposed to read by Judges in open court at the start of each session day.

F. *Specific Mention of State Neutrality on Religious Issues or of the Principle of Equality When Dealing with Religions*

Yes, see Section B. above, citing CONSTITUTION (1987) art. III, sec. 5.

G. *State Cooperation with or Separation from Religion*

Yes, church-state separation is mentioned in the directive principles. See Question No. 3.b above, citing CONSTITUTION (1987) art. II, sec. 5. However, there is no mention of church-state cooperation.

IV. LEGAL CONTEXT

36. Pres. Decree No. 1083 (4 February 1977).

37. Batasang Pambansa Blg. 129 (The Judiciary Reorganization Act of 1980), sec. 45 (14 August 1981).

38. Rep. Act No. 9492 (The Holiday Economics Law) (24 July 2006).

39. Id.

40. At <http://cjpanganiban.ph/speeches/ang-pagiging-hiwalay-ng-simbahan-at-pamahalaan> (31 March 2010).

A. Legislation and/or Case Law on Religion or Religious Freedom

Philippine statute and case law abound in church-state cases. In summary, these cases affirm the free exercise and establishment doctrines, but adapt them to Philippine specificities, mainly, that there is a Catholic majority in the country and that Catholicism has in many ways been “inculturated” and thus secularized.

The political participation of religious groups is expressly prohibited by both the Constitution and the Omnibus Election Code of the Philippines:

... Religious denominations and sects shall not be registered....⁴¹ 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.⁴²

Religious groups are further banned from intervening in village-level elections⁴³; from raising campaign funds, except “for normal and customary religious stipends, tithes, or collections on Sundays and/or other designated collection days”⁴⁴; from donating campaign funds except for “normal and customary religious dues or contributions, such as religious stipends, tithes or collections on Sundays or other designated collection days.”⁴⁵

The Election Code also prevents ecclesiastics from “coercing of subordinates” to vote for or against any candidate.⁴⁶

Any public officer, or ... *any head, superior, or administrator of any religious organization* ... who coerces or intimidates or compels, or in any manner influence, ... any of his subordinates or members or parishioners ... to aid, campaign or vote for or against any candidate or any aspirant for the nomination or selection of candidates [or] who dismisses or threatens to dismiss, punishes or threatens to punish ... *any subordinate member or affiliate, parishioner*, ... for disobeying or not complying with any of the acts ordered

Survey of Case-Law on the Free Exercise Clause (in addition to those cited elsewhere)

In *Gerona v. Secretary of Education*⁴⁷, the Court upheld the state’s decision to compel school children belonging to the Jehovah’s Witnesses to take part in flag ceremonies, despite their protestations that this was contrary to their faith. It took the Philippine Supreme Court until 1993 to reverse itself in *Ebralinag v. Division Superintendent of Schools of Cebu*.⁴⁸

In *American Bible Society*, the Court upheld the tax-exempt status of the sale of bibles. In *German v. Barangan*,⁴⁹ the Court disallowed an anti-Marcos protest rally disguised as a religious exercise, applying the test of good faith. In *Anucension v. National Labor Union*,⁵⁰ the Court exempted members of the *Iglesia ni Kristo*, whose religion prohibits them from joining other organizations, from the effects of a “closed-shop” clause in the collective bargaining agreement in their workplace.

41. CONST. (1987), art. IX.C, sec. 2.5.

42. Batas Pambansa Blg. 881 (3 December 1985), art. VIII, sec. 61.

43. Batas Pambansa Blg. 881 (3 December 1985), art. VI, sec. 38.

44. Batas Pambansa Blg. 881 (3 December 1985), art. XI, sec. 97.

45. Batas Pambansa Blg. 881 (3 December 1985), art. XI, sec. 104.

46. Batas Pambansa Blg. 881 (3 December 1985), art. XXII sec. 261.d.1 and 261.d.2.

47. *Gerona v. Secretary of Education*, G.R. No. 13954, 12 August 1959.

48. *Ebralinag v. Division Superintendent of Schools of Cebu*, G.R. No. 95770, 29 December 1995).

49. *German v. Barangan*, G.R. No. 68828, 27 March 1985.

50. *Anucension v. National Labor Union*, G.R. No. 26097, 29 November 1977.

Survey of Case-Law on the Establishment Clause (in addition to those cited elsewhere)

In *Aglipay v. Ruiz*,⁵¹ the Court upheld the validity of a stamp commemorating the Eucharistic Congress to be hosted in Manila, saying that the revised design had shed off its explicitly religious tenor and shifted to a secular interest in promoting tourism. In *Garces v. Estenzo*,⁵² the Court held that a village council had validly acquired the statute of a saint because, despite the separation of church and state, the statue was part of a town fiesta that, despite its original religious character, had been secularized and simply become part of local festivities.

B. Bodies in the State Structure that Deal with Religious Affairs and Religious Communities

There are no government agencies that regulate religion. The Office of Muslim Affairs is the only official representation of a religious community in government. It is primarily tasked with preserving and developing the culture, traditions, institutions and well-being of Muslim Filipinos.⁵³

Under the U.S. colonial government, there existed a Bureau of Friar Lands administered by the Department of Justice. When the United States acquired the islands from Spain, it inherited the problem of the concentration of land ownership under royal grants to the religious orders. Accordingly, the U.S. Congress authorized the government to “Purchase Lands of Religious Orders and Others and Issue Bonds for Purchase Price.”⁵⁴

C. Bilateral Formal Relations between State and Religious Communities

There are no formal relations between State and religious communities; however, large Catholic groups have performed secular functions. For example, the *Gawad Kalinga* is a nationwide Catholic lay society that assists in building low-income housing. This group and its parent organization, the Couples for Christ, were in fact recognized in a resolution issued by the Catholic Bishops’ Conference of the Philippines.⁵⁵ Another example is seen in the election reform work of the *Parish Pastoral Council for Responsible Voting* (PPCRV), a national parish-based, non-partisan citizens’ movement for responsible voting and clean elections.⁵⁶

V. THE STATE AND RELIGIOUS AUTONOMY

There are three ways by which state authorities regulate the work of religious communities. The first is through the registration of churches as religious corporations under the Corporation Code of the Philippines.⁵⁷ The second is through the civil power to authorize ministers to solemnize marriages under the Family Code of the Philippines⁵⁸:

Art. 7. Marriage may be solemnized by [a]ny priest, rabbi, imam, or minister of any church or religious sect duly authorized by his church or religious sect *and registered with the civil registrar general*, acting within the limits of the written authority granted by his church or

51. *Aglipay v. Ruiz*, G.R. No. 45459, 14 March 1937.

52. *Graces v. Estenzo*, G.R. No. 53487, 25 May 1981.

53. Exec. Order No. 122-A as amended by Exec. Order No. 295.

54. *Philippine Bill of 1902*, arts. 63-65 (1 July 1902).

55. At <http://www.gk1world.com> (31 March 2010).

56. At <http://www.ppcrv.org/global/index.php> (31 March 2010).

57. *Batas Pambansa Blg. 68* (1 May 1980), title XIII, ch. 2 (Religious Corporations).

58. Exec. Order No. 209 (6 July 1987).

religious sect and provided that at least one of the contracting parties belongs to the solemnizing officer's church or religious sect⁵⁹

The third is through controlling immigration and the entry of foreign missionaries.⁶⁰

VI. RELIGION AND THE AUTONOMY OF THE STATE

The Catholic majority does not have any overt and official role in the secular governance of the country; however, it does hold immense influence over legislation. For example, abortion is a crime under the Revised Penal Code⁶¹ and divorce is illegal. The Reproductive Health bill has been filed three times since 2001, and each time the bill has been successfully blocked by Catholic lobbyists. Likewise, as cited in the CBCP Catechism, the bishops call on the faithful to not vote for pro-reproductive rights candidates:

The intention is not to tell Catholics for whom or against whom to vote. The responsibility to make political choices rests with each individual...

[But] it would not be morally permissible to vote for candidates who support *anti-family policies, including reproductive health . . .* or any other moral evil such as abortion, divorce, assisted suicide and euthanasia. Otherwise one becomes an accomplice to the moral evil in question. (emphases supplied).

Additionally, the Islamic minority is given some control over religious matters under the Code of Muslim Personal Laws,⁶² which covers all laws relating to personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations between and among Muslim-Filipinos. Furthermore, decisions by shari'a courts are binding in the same manner as regular court decisions. Thus, although there is no divorce under the general statute (Family Code of 1987), divorces decreed by the shari'a courts are considered valid and binding.

VII. LEGAL REGULATION OF RELIGION AS A SOCIAL PHENOMENON

Philippine laws – apart from the limited exceptions mentioned earlier, e.g., tax exemptions, public holidays and exceptions for the Muslim minority – are entirely religion-blind and are thus neutral to the religious affiliation of persons. Also, as discussed above, they are regulated generically as corporate persons (though with a separate clause for religious corporations), as solemnizing officers for marriages, or as aliens (if a missionary is non-Filipino).

In regards to conscientious objectors, the Reproductive Health bill—perennially shelved by Congress under pressure from the Roman Catholic Church—contained a clause punishing medical professionals who refuse to render health care to certain patients (typically victims of botched abortions), but subject to a conscientious objector defense.

59. Exec. Order No. 209 (6 July 1987), art. 7.2. See also Monsignor Jamias v. Director of Public Libraries, G.R. No. L-2133, 22 July 1948.

60. At <http://www.chanrobles.com/philippineimmigrationlaws.htm> (31 March 2010).

61. REV. PENAL CODE, art. 256, *Intentional abortion*; Art. 257, *Unintentional abortion*; Art. 258, *Abortion practiced by the woman herself or by her parents*; and Art. 259, *Abortion practiced by a physician or midwife and dispensing of abortives*.

62. Pres. Decree 1083 (4 February 1977).

The prohibition covers the:

Refus[al] to extend quality health care services and information on account of the patient's marital status, gender or sexual orientation, age, religion, personal circumstances, and nature of work: *Provided*, That all *conscientious objections* of health care service providers based on ethical and religious grounds shall be respected: . . . *Provided, finally*, That the patient is not in an emergency condition or serious case . . .⁶³

Finally, the Supreme Court, in a recent landmark ruling, held that a court employee had not committed immoral behavior by contracting a second "union" because that union was moral by her religion, although it would have been illegal by secular law and by Catholic doctrine. *Estrada v. Escritor*⁶⁴ was an administrative disciplinary action against a court employee who had been estranged from her husband for more than twenty years and during that period began a new family with another man with the blessings of their church. The Court did not dismiss her from service, lest it condemn as immoral a practice by a minority religion, according to the standards of the majority religion: "Accommodation is distinguished from strict neutrality in that the latter holds that government should base public policy solely on secular considerations, without regard to the religious consequences of its actions."⁶⁵

VIII. STATE FINANCIAL SUPPORT FOR RELIGION

State subsidy for religion is impermissible except for the traditional exception for chaplains in the military, prisons, orphanages, and leprosariums.⁶⁶

IX. CIVIL LEGAL EFFECTS OF RELIGIOUS ACTS

The Family Code recognizes marriages solemnized by religious ministers so authorized by their church and registered with the civil registrar.⁶⁷ Note, however, that in another marriage-related case, the Court upheld the state's power to license persons authorized to solemnize marriages, even if it would empower the state to inquire into the organization and doctrine of the church or sect. The Court held that the power to inquire was limited solely to distinguish and discriminate between determine whether the group was "a legitimately established religion or church," in order to block off "pseudo or spurious religious organizations which ostensibly appear to be dedicated to the practice of religion and the exercise of particular faith but which in reality are mere marriage agencies."⁶⁸ In Philippine politics, the litmus test of church-state separation is the ban on family planning programs. The constitution sets forth a delicate balance:

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. . . .⁶⁹

63. *Reproductive Health, Responsible Parenthood and Population Development Act of 2007, House Bill 17, 14th Congress (2007-2010)*.

64. *Estrada v. Escritor*, 408 SCRA 1, A.M. No. P-02-1651, 4 August 2003.

65. *Estrada v. Escritor*, 408 SCRA 121, A.M. No. P-02-1651, 4 August 2003.

66. CONST. (1987), art. VI, sec. 29.2.

67. Exec. Order No. 209 (July 6, 1987), art. 7.

68. *People v. Fabillar*, 68 Phil. 584, 587 (1939).

69. CONST. (1987), art. XI, sec. 12.

The State shall defend [t]he right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood⁷⁰

The drafting history of this clause shows that its intention was to “prevent a *Roe v. Wade*” that will lift the ban on abortion, currently a crime under the Revised Penal Code.⁷¹ At the same time, this text leaves room for a couple to decide how many children they should have and what birth control method they should follow. This is fundamentally important for the Philippines, with a huge population, high unemployment, and subhuman levels of poverty. The City Mayor of Manila has issued an Executive Order⁷² declaring that the city promotes responsible parenthood and upholds natural family planning. Although the Mayor does not prohibit city hospitals from prescribing the use of artificial methods of contraception, the result is that both public and private clinics, including those operated by NGOs, have desisted from dispensing family planning counsel and distributing condoms. The validity of this Order has been challenged in *Osil et al. v. City of Manila*,⁷³ which is still pending.

X. RELIGIOUS EDUCATION OF THE YOUTH

Religious groups are free to establish private schools under secular law. In fact, the Constitution expressly recognizes the role of private schools, which in the Philippines are typically and predominantly religious in nature: “The 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.”⁷⁴

In addition, they are tax-exempt.⁷⁵ Finally, these religious schools in fact enjoy special treatment in that they are exempt from the national ownership requirements in the Constitution: “Educational institutions, *other than those established by religious groups and mission boards*, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens.”⁷⁶ All educational institutions, religious or secular, are regulated by the state, the Department of Education⁷⁷ for elementary and high schools, and the Commission on Higher Education⁷⁸ for tertiary education. Finally, the Constitution carves out an exception to allow religious instruction in public schools under safeguards to avoid establishment clause problems.⁷⁹

XI. RELIGIOUS SYMBOLS IN PUBLIC PLACES

There is no law regulating religious symbols in public places, although Catholic artifacts are commonplace in government buildings.

70. CONST. (1987), art. XV, sec. 3(1).

71. REV. PENAL CODE, art. 256–58.

72. Exec. Order No. 003, Series of 2000 issued by the Office of the Mayor of the City of Manila on 29 February 2000.

73. *Osil et al. v. City of Manila*, Court of Appeals SP No. 1023311, 2007.

74. CONST. (1987), art. XIV, sec. 4.1.

75. CONST. (1987), art. VIII, sec. 28.3.

76. CONST. (1987), art. XIV, sec. 4.2.

77. Administrative Code of 1987, Exec. Order No. 292 (25 July 1987).

78. Rep. Act 7722 (Higher Education Act of 1994) (18 May 1994).

79. CONST. (1987), art. XIV, sec. 3.3.

XII. FREEDOM OF EXPRESSION AND OFFENSES AGAINST RELIGION

There are no laws specific to religious speech, but there have been two Supreme Court decisions on this matter. In *Iglesia ni Kristo v. Court of Appeals*, the Court upheld the power of a government regulatory board to regulate the TV programs on a religious channel but struck down as prior restraint the board's veto on "attacks" against other religions:

[T]he so-called "attacks" are mere *criticisms* of some of the deeply held dogmas and tenets of other religions

The respondent Board may disagree with the criticisms of other religions by petitioner but that gives it no excuse to interdict such criticisms, however, unclean they may be. Under our constitutional scheme, it is not the task of the State to favor any religion by protecting it against an attack by another religion. Religious dogmas and beliefs are often at war and to preserve peace among their followers, especially the fanatics, the establishment clause of freedom of religion prohibits the State from leaning towards any religion. *Vis-a-vis* religious differences, the State enjoys no banquet of options. Neutrality alone is its fixed and immovable stance.⁸⁰ (emphasis in the original)

In *MVRS Publications v. Islamic Da'Wah Council of the Philippines*,⁸¹ the Court threw out a complaint for damages arising from defamatory writings against the Islamic faith, making the foolish allegation that pigs were sacred in Islam. The Court held that an action for defamation requires that the victim be identified with specificity, and that the Council had failed to meet this test.

80. *Iglesia ni Kristo v. Court of Appeals*, G.R. No. 119673, 26 July 1996.

81. *MVRS Publications v. Islamic Da'Wah Council of the Philippines*, G.R. No. 135306, 28 January 2003.