A.M. No. 10-4-19-SC – Re: Letter of Tony Q. Valenciano, re Holding of Religious Rituals at the Halls of Justice Building in Quezon City.

Promulgated:

March 7, 2017

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CONCURRING OPINION

"Offense, however, does not equate to coercion. Adults often encounter speech they find disagreeable; and an Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views x x x."[1]

JARDELEZA, *J.*:

I agree with the excellently argued *ponencia* and its conclusion that the Catholic masses held at the Quezon City Hall of Justice should not be prohibited. I take this opportunity to add a few words on the important constitutional issues raised in this case.

Mr. Tony Q. Valenciano (Mr. Valenciano) wrote this Court in 2009, and again in 2010, concerning the holding of Roman Catholic masses at the basement of the Quezon City Hall of Justice. He claims that this is a violation of the constitutional command of separation of church and state and the constitutional prohibition against the appropriation of public money for the benefit of a sect, church, denomination, or any other system of religion. This Court asked Executive Judge Fernando T. Sagun, Jr. (Executive Judge Sagun) of the Regional Trial Court, and Executive Judge Caridad W. Lutero (Executive Judge Lutero) of the Metropolitan Trial Court of Quezon City to comment on the letters. Both judges take the position that the questioned practice violates no constitutional provision. Executive Judge Sagun explains that steps have been taken to address Mr. Valenciano's concerns, such as the shortening of the mass to thirty (30) minutes. Executive Judge Lutero adds that all denominations are allowed to engage in religious practices within the confines of the Quezon City Hall of Justice. Christians are allowed to conduct their own bible studies and Muslims to worship Allah in their offices.

The Office of the Court Administrator recommends that daily masses at the Quezon City Hall of Justice be allowed subject to the following conditions: (a) the public is not unduly inconvenienced by the exercise thereof; (b) it does not adversely affect and interrupt the delivery of public

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[1] *Town of Greece v. Galloway*, 12-696, May 5, 2014.

service; and (c) the display of religious icons are 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.

The Establishment Clause is a central doctrine in our constitutional democracy. Through the years, this Court has been called upon to uphold this constitutional provision and strike down government acts that threaten to break the wall of separation that prevent religion and government from excessively entangling. In all Establishment Clause cases, the "measure of constitutional adjudication is the ability and willingness to distinguish between real threat and mere shadow."[2] I believe that this case poses no danger to the separation of church and state.

Section 5 of the Bill of Rights of the Constitution states—

> Sec. 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.

This provision encapsulates the Religion Clauses of our Constitution—the Establishment Clause and the Free Exercise Clause. These two clauses complement each other, and together, they promote the flourishing of the freedom to choose to believe or not to believe in the concept of a supreme being.

The Free Exercise Clause mandates an absolute protection of the freedom to believe. Thus, a person is free to worship any god he or she may choose or none at all.[3] The difficulty and the beauty of the Free Exercise Clause, however, are found in its application in the realm of actions. While a person is free to believe what he or she may choose, he or she is not absolutely free to act on his or her beliefs. In constitutional adjudication, the challenge has often been the determination of whether a governmental act jeopardizes the freedom to act on one's belief, and whether the freedom to exercise a religion justifies an exemption from a law or government regulation. We have had the opportunity to rule on cases involving the Free Exercise Clause, and we have consistently endeavored to find the delicate balance between the secular interest of the state and the freedom of religion of the individual.

On the other hand, the Establishment Clause, in its strict sense, bars a state from creating a state religion or espousing an official religion. There are, however, several gradations in the application of the Establishment

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[2] *School Dist. of Abington Tp. v. Schempp*, 374 U.S. 203, 308 (1963), Justice Goldberg, concurring.

[3] *Re: Request of Muslim Employees in the Different Courts in Iligan City (Re: Office Hours)*, A.M. No. 02-2-10-SC, December 14, 2005, 477 SCRA 648, 655-656, citing Justice Isagani A. Cruz, Constitutional Law (1995).

Clause. It extends its prohibition not only to official acts establishing a state religion but also to government acts that have the effect of endorsing religion or favoring one over others. In *Iglesia Ni Cristo v. Court of Appeals*,[4] we held that the Establishment Clause prohibits the state from leaning in favor of religion. "Neutrality alone is its fixed and immovable stance."[5]

This notwithstanding, the Establishment Clause must not be construed so literally so as to impose an absolute separation between the affairs of the state and the church. It exists not in the pursuit of separation for its own sake. Rather, the goal of the Establishment Clause is to create constitutional space where religion may flourish. The Establishment Clause bars the state from favoring any religion so that it may not inhibit religious belief by rewarding other religious beliefs.[6] The Establishment Clause has never been intended, and as such, should not be interpreted to serve as a tool to alienate the church from the state.

The Religion Clauses are unique in that while their application oftentimes creates tension, they also exist to protect the essential need to promote liberty of conscience—the choice to believe or not to believe in a greater being. The Free Exercise Clause insures this by insulating the individual from any government act that may prevent or burden his or her right to practice his or her faith within the limits of the law. The Establishment Clause upholds freedom of religion by enforcing neutrality and making volunteerism the determining factor in an individual's religious choices.[7] The state is neutral to all religions. It does not espouse any of them so that an individual will be free, without any kind of compulsion, to make the choice for himself or herself.

Our jurisprudence on the Religion Clauses reveal that in cases where this Court is called upon to perform the delicate balancing of protecting freedom of religion and upholding the legitimate interest of the state, we have always chosen not to espouse a blind adherence to an absolute separation of church and state but one that permits accommodation, whenever possible, in the greater pursuit of allowing freedom of religion to flourish.

In *Aglipay v. Ruiz*,[8] we found that the Director of Posts may validly issue and sell postage stamps commemorative of the Thirty-Third International Eucharistic Congress without violating the Establishment Clause. We found that the purpose for issuing and selling the stamps was to promote the Philippines and attract tourists as it was the seat of the Eucharistic Congress. While the issuance and sale of the stamps may be

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4 G.R. No. 119673, July 26, 1996, 259 SCRA 529.
5 *Id.* at 547.
6 *Estrada v. Escritor*, A.M. No. P-02-1651, June 22, 2006, 492 SCRA 1, 33.
7 *Estrada v. Escritor*, A.M. No. P-02-1651, August 4, 2003, 408 SCRA 1.
8 64 Phil. 201 (1937).

"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."[9] It is the main purpose and not the mere incidental results that should matter. We categorically declared that what is guaranteed in the Constitution is religious liberty and not mere religious toleration. In explaining the many ways that the affairs of the state and the church often intersect, we held—

> 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. 4, 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 (sec. 13, subsec. 3, Art. VI, Constitution of the Philippines). Optional religious instruction in the public schools is by constitutional mandate allowed (sec. 5, Art. XIII, Constitution of the Philippines, in relation to sec. 928, Adm. Code). Thursday and Friday of Holy Week, Thanksgiving Day, Christmas Day, and Sundays and made legal holidays (sec. 29, Adm. Code) because of the secular idea that their observance is conclusive 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 (*see* arts. 132 and 133, Revised Penal Code).[10]

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9 *Id.* at 209.

10 *Id.* at 206-207.

In *American Bible Society v. City of Manila*,[11] we held that ordinances requiring businesses to obtain permits and pay license fees cannot be applied to the American Bible Society's practice of distributing and selling bibles and/or gospel excerpt. We explained that the constitutional guaranty of the free exercise and enjoyment of religious profession and worship carries with it the right to disseminate religious information. Any restraint of this right can only be justified on the ground that there is a clear and present danger of any substantive evil which the state has the right to prevent.[12]

We also upheld, in *Victoriano v. Elizalde Rope Workers' Union*,[13] a law exempting certain employees from close shop agreements in collective bargaining when their religion prohibits it. In explaining the Religion Clauses of the Constitution, we declared—

> **The constitutional provision [not] only prohibits legislation for the support of any religious tenets or the modes of worship of any sect, thus forestalling compulsion by law of the acceptance of any creed or the practice of any form of worship, but also assures the free exercise of one's chosen form of religion within limits of utmost amplitude.** It has been said that the religion clauses of the Constitution are all designed to protect the broadest possible liberty of conscience, to allow each man to believe as his conscience directs, to profess his beliefs, and to live as he believes he ought to live, consistent with the liberty of others and with the common good.[14]

In *Ebralinag v. The Division Superintendent of Schools of Cebu*,[15] we reversed the thirty-year old doctrine in *Gerona v. Secretary of Education*[16] that members of the Jehovah's Witness may be validly dismissed from school because of their refusal to salute the Philippine flag. We held that while saluting the flag is required under the law, members of the Jehovah's Witness ought to be exempted out of respect for their religious beliefs. We said that dismissing students from school because of their refusal to salute the flag in accordance with their religion is "alien to the conscience of the present generation of Filipinos who cut their teeth on the Bill of Rights which guarantees their rights to free speech and the free exercise of religious profession and worship."[17]

We also found constitutionally infirm the decision of the Movie and Television Review and Classification Board (MTRCB) in giving an X-rating to the show "*Ang Iglesia Ni Cristo.*"[18] The MTRCB used as one of its

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11 G.R. No. L-9637, 101 Phil. 386 (1957).
12 *Id.* at 398-399.
13 G.R. No. L-25246, September 12, 1974, 59 SCRA 54.
14 *Id.* at 73; citations omitted; emphasis ours.
15 G.R. No. 95770, March 1, 1993, 219 SCRA 256.
16 106 Phil. 2 (1959).
17 *Ebralinag v. The Division Superintendent of Schools of Cebu City*, *supra* at 270.
18 *Iglesia Ni Cristo v. Court of Appeals*, *supra* note 4.

grounds the fact that the show, which discussed the doctrines of the *Iglesia Ni Cristo*, "offend[s] and constitute[s] an attack against other religions."[19] We ruled that the MTRCB has no authority to stifle the show's criticisms of other religions as it is not the task of the state "to favor any religion by protecting it against an attack by another religion."[20] We emphasized that neutrality alone is the "fixed and immovable stance."[21]

We have even incorporated in our administrative policy an accommodation of the religious practices of our court employees. In *Re: Request of Muslim Employees in the Different Courts in Iligan City (Re: Office Hours)*,[22] we allowed Muslim court employees to hold flexible office hours from 7:30 a.m. to 3:30 p.m. without any break during the month of Ramadan. While we refused to allow them to hold office from 7:30 am to 3:30 pm every Friday for the entire calendar year, this was based on what we deem is a value that justifies slightly inconveniencing the religious practice of Muslims. Specifically, we upheld the civil service rule which enjoins all civil servants, of whatever religious denomination, to render public service of no less than eight hours a day or 40 hours a week. In other words, our declared policy is to allow the practice and expression of religious faith for as long as it does not unjustifiably prejudice our avowed duty to serve the public.[23]

In 2003, we promulgated *Estrada v. Escritor*[24] which became an essential case in our growing jurisprudence on the Religion Clauses. Here, we categorically and unequivocally declared that in resolving claims involving religious freedom benevolent neutrality or accommodation, whether mandatory or permissive, is the spirit, intent, and framework underlying the Religion Clauses in our Constitution.

Benevolent neutrality, as held in *Estrada*, is an approach to the Religion Clauses which leaves room for the accommodation of religion. In explaining the concept of accommodation and how it is compatible with the Establishment Clause, we quoted the American case *Zorach v. Clauson*,[25] which said—

> The First Amendment, however, does not say that, in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one or the other. That is the common sense of the matter. Otherwise, the state and religion would be

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19 *Id.* at 535.
20 *Id.* at 547.
21 *Id.*
22 *Supra* note 3.
23 *Id.* at 657.
24 *Supra* note 7.
25 343 U.S. 306 (1952).

> aliens to each other—hostile, suspicious, and even unfriendly.[26]

Estrada then proceeded to analyze our religion cases and declared that "the well-spring of Philippine jurisprudence on this subject is for the most part, benevolent neutrality which gives room for accommodation."[27] I agree.

Estrada has, since its promulgation, been cited by this Court in cases involving the Religion Clauses. We invoked the benevolent neutrality accommodation in *Imbong v. Ochoa, Jr.*[28] In ascertaining whether the duty to refer, under the Reproductive Health Law, unduly burdened the free exercise of religion of conscientious objectors, we applied the compelling state interest test in accordance with the benevolent neutrality approach. We ruled that conscientious objectors must be exempt from the duty to refer so as not to infringe their freedom of religion.

In my view, *Estrada* did not introduce anything new in applying benevolent neutrality in religion cases. Rather, it is an expression of the decades of jurisprudence that has persistently chosen a path where the separation of church and state may be used to create a space where religion is not stifled but is allowed to flourish.

Of course there have been cases where we refused to grant a claim based on religion. In all these cases, however, this Court found interests that justify the refusal of a claim under the Religion Clauses.

German v. Barangan,[29] a decision involving a public demonstration at the peak of anti-government rallies during the Martial Law, is one such case. Petitioners intended to pray in the St. Jude Chapel which was within the Malacañang premises. They were, however, prevented from doing so, on the ground that St. Jude Chapel was located within a Malacañang security area. Petitioners went to this Court and claimed that they should be allowed to pray inside the chapel in accordance with their freedom to practice their religion. This Court denied their petition. While the case was hinged on the petitioners supposed lack of good faith in their claim, the Court also found that even if there was good faith, the refusal to allow them within a Malacañang security area did not violate their freedom of religion. The refusal to allow them into the security area was motivated by the need to protect the life of the then President Marcos and his family, as well as other governmental officers transacting business in Malacañang.

In *Ang Ladlad LGBT Party v. Commission on Elections* (COMELEC),[30] we chastised the COMELEC for relying on the Holy Bible

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[26] *Estrada v. Escritor*, *supra* note 7 at 118-119; *Zorach v. Clauson*, *supra* at 312.
[27] *Supra* note 7 at 133.
[28] G.R. No. 204819, April 8, 2014, 721 SCRA 146.
[29] G.R. No. L-68828, March 27, 1985, 135 SCRA 514.
[30] G.R. No. 190582, April 8, 2010, 618 SCRA 32.

and the Koran in their decision to disqualify Ang Ladlad LGBT Party from participating in the party-list elections. We found this to be a clear violation of the Establishment Clause. The government must act for secular purposes for primarily secular effects. We explained—

> x x x Otherwise, if government relies upon religious beliefs in formulating public policies and morals, the resulting policies and morals would require conformity to what some might regard as religious programs or agenda. The non-believers would therefore be compelled to conform to a standard of conduct buttressed by a religious belief, *i.e.*, to a "compelled religion," anathema to religious freedom. Likewise, if government based its actions upon religious beliefs, it would tacitly approve or endorse that belief and thereby also tacitly disapprove contrary religious or non-religious views that would not support the policy. As a result, government will not provide full religious freedom for all its citizens, or even make it appear that those whose beliefs are disapproved are second-class citizens.
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> In other words, government action, including its proscription of immorality as expressed in criminal law like concubinage, must have a secular purpose. x x x[31]

In this case, we clarified that not all claims based on religion should be recognized. But even while we disagreed with the COMELEC, we emphasized that the imperative for the government to pursue secular purposes rather than religious ones is to avoid the endorsement of any particular religion and in effect, disapproving others. Neutrality is the stance not because the Establishment Clause requires the government to put up a wall of separation between church and state that is "high and impregnable"[32] but because it is only in neutrality that freedom of religion can find expression.

In *Imbong*, we also refused a claim based on the Religion Clauses. In this case, petitioners argued that the use of contraceptives is against their religion. Thus, the state procurement of contraceptives is unconstitutional as it violates the Religion Clauses. We ruled that the question of whether the use of contraceptives is moral from a religious standpoint falls outside the province of the Court. Further, this Court invoked the Establishment Clause in denying the petitioner's claims. We explained that while "the establishment clause restricts what the government can do with religion, it also limits what religious sects can or cannot do with the government."[33] Members of a particular religion cannot ask the government to adopt their religious doctrine as the policy for everyone else. We said, "[t]o do so, in simple terms, would cause the State to adhere to a particular religion and,

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31 *Id.* at 59.
32 *Estrada v. Escritor*, *supra* note 7 at 106.
33 *Imbong v. Ochoa, Jr.*, *supra* note 28 at 334.

thus, establishing a state religion."[34] *Imbong* exemplifies the delicate balancing act involved in cases involving the Establishment Clause. It also demonstrates that in protecting the wall of separation, the goal is not to shun all religion for the sake of stifling the presence of religion in the sphere of government but rather refuse any policy that may directly or indirectly favor one religion over others.

This is the path that our jurisprudence on the Religion Clauses has taken. It is one that chooses accommodation, where there is no danger of breaching the wall of separation, instead of a blind and literal adherence to the concept of a separate church and state. To repeat, the Establishment Clause exists not for the sake of separation *per se* but as a tool to allow all religion (as well as the choice not to have one) to thrive and flourish. Our Establishment Clause, existing in the context of a unique Filipino culture, has developed its own narrative. It is this narrative that must permeate any understanding of what it means for our constitutional democracy to uphold the separation of church and state.

I note, however, that the present case is one of first impression. While we have had the opportunity to rule on cases involving our Religion Clauses, these cases generally involved a challenge of an official act that threatens to burden the free exercise of religion. In the present case, this Court is asked to interpret a governmental institution's acquiescence to a religious practice and ascertain whether this acquiescence amounts to an endorsement or support for a particular region.

Our Establishment Clause finds its source in the First Amendment of the American Constitution. In several Establishment Clause cases, this Court has relied upon the guidance of American jurisprudence in appreciating the complexities of the separation of church and state. American jurisprudence has persuasive weight in this jurisdiction. More importantly, a review of relevant American cases may give us a guide on what analytical tools we can use in exploring the boundaries of permissible religious accommodation.

I highlight that the issue presented before us actually involves two matters—the constitutionality of allowing religious practice within the premises of the Quezon City Hall of Justice and of allowing Catholic images to be displayed in a particular area. Most relevant to the present case are the United State Supreme Court's rulings in matters pertaining to government entities allowing the display of religious items in their premises as well as the act of government instrumentalities of opening government activities with prayer. The leading cases of *Marsh v. Chambers,*[35] *Town of Greece v.*

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[34] *Id.*

[35] 463 U.S. 783 (1983).

Galloway,[36] *Lynch v. Donnelly*,[37] and *County of Allegheny v. ACLU*[38] merit a review.

Marsh v. Chambers dealt with the constitutionality of the practice of the Nebraska Legislature of beginning its session with a prayer by a chaplain paid by the state and with the legislature's approval. Here, the United States Supreme Court ruled that the practice did not violate the Establishment Clause. In arriving at this conclusion, the United States Supreme Court used history and the intent of the framers of the First Amendment as the framework of analysis. The United States Supreme Court found that the practice of opening the sessions of congress with a prayer has existed for two centuries. The First Congress, during whose term the language of the American Bill of Rights which includes the United States' religion clauses was finalized, adopted the policy of selecting a chaplain to open each session with a prayer. The United States Supreme Court explained—

> Standing alone, historical patterns cannot justify contemporary violations of constitutional guarantees, but there is far more here than simply historical patterns. In this context, historical evidence sheds light not only on what the draftsmen intended the Establishment Clause to mean, but also on how they thought that Clause applied to the practice authorized by the First Congress—their actions reveal their intent.[39]

The United States Supreme Court found that the unique history of opening prayers in legislative sessions and the First Amendment leads to the conclusion that the drafters of the First Amendment Religion Clauses saw no real threat to the Establishment Clause in a practice of prayer similar to that used in the Nebraska Legislature. *Marsh* also declared that the content of the prayer is not the concern of the court in the absence of any indication that the prayer opportunity has been exploited to advance or disparage any other faith or belief.

This ruling was echoed in the 2014 case *Town of Greece v. Galloway* where the United States Supreme Court upheld the practice of beginning town board meetings with a prayer led by a chosen "chaplain of the month" who may come from any religious congregation selected from a list of available ministers in the town. The practice was challenged on the ground that the prayers were sectarian and dominated by Christian themes. The petitioner insisted that prayers must be inclusive and ecumenical so as not to associate the government with one particular religion. The United States Supreme Court found that the town board meeting opening prayer follows the tradition of the legislative prayer declared constitutional in *Marsh*. The decision also highlighted that *Marsh* did not find relevant the content of the

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[36] *Supra* note 1.
[37] 465 U.S. 668 (1984).
[38] 492 U.S. 573 (1989).
[39] *Marsh v. Chambers, supra* note 35 at 790.

prayer itself so long as the practice is not being used to promote or disadvantage any other religion. The validity of prayers in this particular context does not arise from the generic theism of the prayers themselves but from a finding that history and tradition have shown that this kind of practice can be accommodated without posing a threat to the Establishment Clause. *Town of Greece* further highlighted that the prayers being challenged were intended for the board members only and no member of the public was compelled to participate. The religious practice was an internal act among the town board members and not meant to promote any religion to the public. So long as the town board pursued a policy of non-discrimination and the prayers may be in accord with any religious denomination of the particular chaplain assigned to lead the opening prayer, no violation of the Establishment Clause exists. The United States Supreme Court added that non-believers may feel offended by the practice is no justification to rule that it is unconstitutional. Said the court—

> x x x Offense, however, does not equate to coercion. Adults often encounter speech they find disagreeable; and an Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views in a legislative forum, especially where, as here, any member of the public is welcome in turn to offer an invocation reflecting his or her own convictions. x x x[40]

While *Marsh* and *Town of Greece* involve the constitutionality of a religious practice sanctioned by the government, *Lynch* and *County of Allegheny* pertain to the constitutionality of government sanctioned displays of religious images.

In *Lynch v. Donnelly*, the United State Supreme Court was called upon to rule on the constitutionality of the City of Pawtucket's annual Christmas display which includes a Santa Claus house, a Christmas tree, a banner that reads "SEASONS GREETINGS," and a crèche or Nativity scene. Here, the United States Supreme Court held that the Establishment Clause does not seek to establish a regime of total separation between church and state. It explained—

> No significant segment of our society, and no institution within it, can exist in a vacuum or in total or absolute isolation from all the other parts, much less from government. "It has never been thought either possible or desirable to enforce a regime of total separation. . . ." x x x Nor does the Constitution require complete separation of church and state; it affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any. x x x Anything less would require the "callous

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[40] *Town of Greece v. Galloway, supra* note 1

> indifference" we have said was never intended by the Establishment Clause. x x x[41]

Thus, not every governmental action that has religious undertones must be automatically struck down as a breach of the wall of separation. In *Lynch*, the United States Supreme Court held that each case requires courts to scrutinize whether the challenged official conduct, in reality, establishes a religion or tends to do so. Each case thus requires line-drawing.[42] In this task, *Lynch* applied the test established in *Lemon v. Kurtzman,*[43] which involves an inquiry as to whether the official act has a secular purpose, whether its principal or primary effect is to advance or inhibit religion, and whether it creates an excessive entanglement of government with religion.

In the application of the Lemon Test, *Lynch* necessarily required an examination of the circumstances surrounding the challenged Christmas display. The United States Supreme Court pursued this framework of analysis in *County of Allegheny v. ACLU.*[44] This case repeated and emphasized that a government's use of religious symbols is unconstitutional if it has the effect of endorsing a religious belief. Whether the use of religious symbols has this effect, in turn, depends upon the context. Here, the United States Supreme Court ruled that the display of a crèche at the grand staircase of the county courthouse violated the Establishment Clause. Its setting clearly signified the government's endorsement of a particular religious message. *County of Allegheny*, however, declared valid the display of a menorah in front of the city-county building. Relying on an analysis of setting and context, particularly that the menorah was displayed during the winter holidays along with a Christmas tree and a sign that reads "Salute to Liberty," the United States Supreme Court found that taken as a whole, the religious display does not amount to an endorsement of a religion but only recognizes that both Christmas and Chanukah are part of the same winter holiday season.

These four cases capture the doctrine and the framework of analysis that ought to apply in cases where the state uses religious symbols. The Establishment Clause is breached when the state, by using a religious symbol, effectively endorses religion. In determining if this endorsement exists, reliance has been made on history insofar as it reflects the intent of the drafters of the Religion Clause. The particular setting of the religious display is also taken into account in order to ascertain if it indeed amounts to the sponsorship of religion.

It is within these contexts that this Court must proceed to apply the principles of the Establishment Clause to the present case.

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41 *Lynch v. Donnelly*, *supra* note 37 at 674; citations omitted.
42 *Id.* at 669.
43 403 U.S. 602 (1971).
44 *Supra* note 38.

Majority of the country's population believe in some form of religion. Out of around 92 million Filipinos, about 74 million are Catholics and around 5 million are Muslims. There are also millions belonging to the Christian faith such as the *Iglesia Ni Cristo* and the Philippine Council of Evangelical Church.[45] While these numbers alone do not justify any erosion of the wall of separation, they are, however, an indication of the inevitable link between this government and the various religious faiths present among its people. The duty of the state, as mandated by the Religion Clauses of the Constitution, is not to endeavor to completely rid itself of any traces of respect for religion, but to pursue a policy where the freedom to believe or not to believe may thrive.

Thus, historically, the government has accommodated religion in the public space. This is seen in the various national holidays declared in the name of important religious events such as *Eid'l Fitr*, *Eidul Adha*, Maundy Thursday, Good Friday, and All Saints' Day.

Even the oath of office prescribed for government officials end with the phrase "So help me God." While government officials are free to omit this line, it is, nevertheless, an indication that a display of faith in a supreme being is not completely barred from the public space.

Further, the Preamble of the Constitution also mentions an Almighty God. In fact, the sessions of the 1986 Constitutional Commission always began with a prayer. This manifests how the drafters of the Constitution understood the Establishment Clause. The acknowledgment of religion, the acceptance that ours is a generally theistic society, the agreement that the phrase "Almighty God" appear in the Preamble of the Constitution, and the shared participation in prayer at the start of every Constitutional Commission session all shed light as to how the Establishment Clause was intended to be construed. The framers of the Constitution themselves did not perceive the acknowledgment of religion as a threat to the separation of church and state. The records of the debates on the floor of the Constitutional Commission show the deliberateness of the inclusion of the term "Almighty God" in the Preamble. While the Committee on the Preamble initially used the term Divine Providence and proposals were made to change it to "Lord of History," the phrase "Almighty God" eventually found its way into the Preamble as we know it now. The drafters of the Constitution agreed that this phrase more accurately reflected the spirit and culture of the Filipinos and was accepted both by the Christian and Muslim representatives in the Constitutional Commission.[46]

In fact, our Constitution, as well as its predecessors, the 1935 and the 1973 Constitutions, all contain provisions granting tax exemptions to

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[45] 2015 Philippine Statistical Yearbook, Philippine Statistics Authority, October 2015, <https://psa.gov.ph/sites/default/files/2015%20PSY%20PDF.pdf> (visited November 28, 2016).

[46] I RECORD, CONSTITUTIONAL COMMISSION (June 11, 1986).

religious institutions. These have never been seen as endangering the wall of separation between church and state.

Even this Court has been consistent in recognizing the role of religion in our society. The Supreme Court arms and great seal contains an image of the ten commandments described in Section 1 of Rule 136 of the Rules of Court as "x x x two tablets containing the commandments of God x x x."[47] Similarly, the entrance to our own Supreme Court Old Building has a statue of Moses and the Ten Commandments.

In the United States, the display of the Ten Commandments in government property has been found constitutional by the United States Supreme Court. In *Van Orden v. Perry,*[48] the United States Supreme Court held that the display of a monument of the Ten Commandments in the Texas State Capitol does not violate the Religion Clauses. The United States Supreme Court further noted that even its own courtroom—

> x x x Moses has stood, holding two tablets that reveal portions of the Ten Commandments written in Hebrew, among other lawgivers in the south frieze. Representations of the Ten Commandments adorn the metal gates lining the north and south sides of the Courtroom as well as the doors leading into the Courtroom. Moses also sits on the exterior east facade of the building holding the Ten Commandments tablets.

The United States Supreme Court stated that while Moses and the Ten Commandments are religious symbols, they also possess significance in the country's national heritage and history. That it is placed in the United States Supreme Court courtroom is a recognition of this significance. The same is true in the case of this Court's arms and great seal as well as the image of Moses in the entrance steps of our building.

Further, we have consistently chosen a policy of benevolence to the practice of various religions. The Court has an Ecumenical Prayer[49]—a prayer carefully crafted to reflect and represent the various faiths in the judiciary and in the country. This prayer is used at the beginning of sessions of this Court, in the lower courts, and in flag ceremonies. As a matter of fact, this Court begins its sessions whether *en banc* or in division by reciting this Ecumenical Prayer. This same Ecumenical Prayer is printed in the official

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47 RULES OF COURT, Rule 136, Sec. 1.

48 545 U.S. 677 (2005).

49 See Supreme Court Human Resources Manual, 2012, p. xiv.

The Ecumenical 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."

Supreme Court calendars distributed among Supreme Court employees and courts nationwide.

Nevertheless, it is important to highlight that the Court has never made this prayer mandatory. We also have the Centennial Prayer for the Courts[50] (Centennial Prayer) which this Court encourages to be recited at the start of sessions in this Court and in lower courts. As in the Ecumenical Prayer, this Centennial Prayer was crafted after consultations with various major religious denominations. At no point, however, has it been made mandatory. As Supreme Court Memorandum Circular No. 001-2001 states, its regular recitation is voluntary and no administrative sanction will be imposed on those who refuse to use it for any personal reason.

In accordance with the protection accorded to freedom of religion, every person in the judiciary is free to pray in the way he or she desires or not at all. The Ecumenical and Centennial prayers exist merely as options for members and employees of the judiciary to express their prayer in one particular way. These prayers exist to support the practice of religious faith but they do not impose a monopoly or a singular standard on the proper expression of prayers. Consistent with the Religion Clauses, these practices allow all religions to flourish while leaving sufficient room for people to practice their faith or lack thereof in the manner they deem proper.

Supreme Court employees also hold first Friday masses within the Court premises. These employees have done so voluntarily during lunch break for years now. This Court has not deemed it necessary to prevent them from doing so. We merely regulate the time and place for the holding of the masses so as to insure that there will be no prejudice to public service. It is worth highlighting that this Court, while it has not prohibited the holding of first Friday masses, has refused to designate one particular room where the masses may be held. These employees are free to hold their masses during lunch break within the Court's premises provided that the area they intend to use is not currently needed for any official Court activity. The Court has, and continues to exercise, the right to regulate the use of rooms within the Court premises for the purpose of these first Friday masses. To me, this practice is an eloquent example of the proper understanding of our Religion Clauses and their narrative within the unique Filipino culture.

All these are efforts to recognize the unique role that religion plays in the lives of Filipinos. These efforts do not espouse one particular religion or

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[50] Supreme Court Memorandum Circular No. 001-2001.
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. Amen.

insist on theism over atheism. These practices are the Court's contribution to giving life to the mandate of the Constitution's Religion Clauses—the creation of space where all religions may exist while at the same time giving the people absolute freedom to believe and practice their faith in the manner they deem proper or to have none at all.

Further, this long history of the presence of religion in the conduct of the judiciary's affairs speaks volumes of its perceived effect on the constitutional wall of separation. There is no indication that these practices have led to the establishment of a religion in the judiciary or the mandatory participation of non-Catholics or atheists in religious activities. In the words of United States Supreme Court Justice Oliver Wendell Holmes, "a page of history is worth a volume of logic."[51]

These and our consistent jurisprudence all point to the conclusion that the Establishment Clause does not mandate an automatic finding of unconstitutionality whenever the State engages in an activity that has religious undertones. Whether a government practice breaches the wall of separation depends on whether the effect of that practice is to endorse a religion. This analysis then compels us to examine the context of a particular case.

I note that in 2003, the Office of the Chief Attorney recommended to then Chief Justice Hilario G. Davide that the request to hold a one-day vigil in honor of the Our Lady of Caysasay be rejected on constitutional grounds. Specifically, the Chief Attorney opined that this would violate the wall of separation between the Church and the State. Certainly while the recommendations of the Chief Attorney, and even of the Court Administrator, are given due consideration, they are nonetheless not binding on the Supreme Court. How the Constitution should be applied in a matter involving the administration of our courts is a matter that ultimately lies within the province of the Supreme Court. While recommendations of the Court Administrator and Chief Attorney are important, they are not definitive. This Court determines for itself what the rule is.

To facilitate our discussion, we repeat the facts of this case. There exists a practice among certain Catholic employees of attending mass within the Quezon City Hall of Justice. It appears that attendance in the mass is purely voluntary and there has been no official institutionalization of the practice by virtue of any act from any of the officials of the courts in Quezon City. In other words, this case involves a group of employees who have decided to come together at assigned hours during the workweek to practice their faith. It also appears from the records that these Catholic masses are allowed only during lunch break and for a period of 30 minutes. There is a designated area in the basement of the Quezon City Hall of Justice for this activity. There are religious icons and objects displayed during the mass.

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[51] *New York Trust Co. v. Eisner*, 256 U.S. 345 (1921).

There is no proof that these masses have affected the delivery of public service or disrupted judges and employees in their work. There is no proof that the Quezon City trial courts have spent money to support the Catholic masses being held or that it has made a policy to actively provide resources for the continuous conduct of this religious activity. There is no showing that the specific area has been made exclusive for the use of the Catholic employees. There is also no indication that other employees who are non-Catholics are prevented from practicing their faith within the premises. In fact, Executive Judge Lutero explains that Muslim employees are allowed to pray while Christians are allowed to hold bible studies in their offices.

Mr. Valenciano would have us put an end to this activity on the ground that our acquiescence to this practice amounts to a violation of the Establishment Clause. I find that no violation exists.

At the risk of repetition, the responsible officials in the Quezon City Hall of Justice never ordered the holding of the Catholic masses. Instead, the Catholic court employees themselves decided to organize the activity. The trial courts never officially sanctioned these Catholic masses nor have they actively supported it. It is quite a stretch to insist that though the trial courts have not been officially participating at all in any of these activities, they are endorsing the Catholic faith.

Further, there can be no endorsement of the Catholic faith when the masses are not being held to send a religious message to the public. Attending a Catholic mass is a central tenet in the Catholic faith. The Catholic court employees who regularly go to mass do not do so to communicate a message but for purely personal reasons between them and their God. As the Catholic masses are being held during lunch break, there is little opportunity for litigants and other people visiting the Quezon City Hall of Justice to actually witness the practice. More importantly, no member of the public and the non-Catholic employees has been coerced to participate in the masses.

Moreover, that these Catholic masses are being held within the Quezon City Hall of Justice is, by no means, an indication that the trial court endorses Catholicism. For as long as these Catholic masses are not being used to discriminate against any other religion or against the choice to believe, the Quezon City trial courts' acquiescence ought not to be interpreted as endorsing a religion. Rather, the Quezon City trial courts are simply allowing people of a particular faith to practice it. In *Re: Request of Muslim Employees,* we allowed our Muslim employees to hold office within flexible hours during the period of *Ramadan.* We have pursued a policy of creating a work environment where our employees may be free to worship as they see fit, the only limitation being that public service is not prejudiced. As the Catholic masses in this case are being held during lunch break and only for 30 minutes, the Catholic employees who persist in pursuing the

practice of their faith cannot be said to have sacrificed their duty to serve the public.

I highlight that even the framers of our Constitution began the sessions of the Constitutional Commission with a prayer. They did not find this open profession of their faith offensive to the Establishment Clause that they drafted into constitutional law. We can compare the religious significance of an opening prayer during the sessions of the Constitutional Commission to the holding of masses at the Quezon City Hall of Justice premises. If prayer participated in by the drafters themselves was not deemed as a threat to the separation of church and state, it escapes reason why a trial court's acquiescence to the practice of its employees of voluntarily holding mass during lunch break should be interpreted as constituting a violation. The drafters of the Constitution have given us a guidepost in exploring the bounds of the Establishment Clause. We must give life to their intent.

That there are churches near the Quezon City Hall of Justice or that it is not mandatory in the Catholic faith for its members to attend mass every day is no reason for this Court to interfere with the religious practice of the Catholic employees. In the absence of any indication that these masses are being used to discriminate against non-Catholics and that attendance in these masses prejudice public service, it is in the best interest of the Court to allow sufficient public space for the practice of religion. It is not for us to determine whether the expression of faith of these Catholic employees in choosing to attend mass every day is unreasonable or excessive. The manner and frequency by which these Catholic employees choose to express their faith are matters between them and their God. It is not our place to say that it is too much or that it is unnecessary. Our duty is to grant permissive accommodation when there is no breach of the wall of separation.

That Mr. Valenciano and other non-Catholics may be offended by these Catholic masses is no reason to declare the practice unconstitutional. Religious tolerance, a doctrine essential to our religious clauses, mandates that, within the bounds of law, we give space for religion even if to us, it is unusual or unnecessary. As the United States Supreme Court pronounced in *Town of Greece*, offense itself is not sufficient for a finding of unconstitutionality. We protect speech even if it is offensive as it is essential to the freedom of speech. The Bill of Rights, in truth, realizes its purpose and reaffirms its value in instances where what is sought to be protected is the exercise of a right that does not seem traditional, acceptable, or normal. In the realm of religion, it is in the lawful practice of religious activities that may seem odd or unusual that we are challenged, as a society, to further extend the limits of our religious tolerance. It is in questions like this that we are called to choose between an interpretation of the law that is humane or one that is literal, strict, and blind to the dictates of conscience. The Establishment Clause, as well as the Bill of Rights, speaks to our humanity.

It is this humanity, rather than a blind adherence to an overly literal interpretation of the law, that must prevail.

Further, there is an important secular purpose achieved when employees are allowed to practice their religion during their free time in the workplace, under defined restrictions that ensure they do not obstruct their delivery of public service. The Constitution declares that public office is a public trust. In *Aglipay*, we recognized that religion exerts an elevating influence in human affairs because it instills into human minds the purest principles of morality.[52] Among the many general concessions indiscriminately accorded to religious sects and denominations, we declare certain religious holy days as legal holidays "because of the secular idea that their observance is conducive to beneficial moral results."[53] Allowing the faithful among public servants to hear mass in the workplace, insofar as it renews in them daily their desire to achieve the highest principles of morality, can only better equip them to meet their secular obligation to be at all times accountable to the people. That other public servants may draw their sense of morality from other faiths, or no religion at all, or find no need for any morality to define or guide their discharge of the public trust, is of no moment. This is what religious tolerance is all about.

The Supreme Court not only dispenses justices through decisions, we also have the obligation to manage our human resources. The same is true for lower courts. Part of our duty as administrators and managers is to motivate our employees, maximize their skills, and create a work environment that encourages them to do their best in the service of the public. This is the reason why we organize sports fests, celebrations, and events within our premises and support our employees' decision to form groups that cater to their interests. When our employees feel that we look after their interests and well-being, they are motivated to work harder and to choose to stay in the judiciary.

From this management perspective, allowing Catholic employees to group together in prayer and in Catholic masses serves an important human resources purpose. By choosing to allow Catholic masses instead of stifling them, these Catholic employees are made to feel that their spiritual well-being, on a non-discriminatory basis, is important to the Judiciary. At the same time, the Court, as administrator, must emphasize that all religions represented within the Judiciary are free to express their religious beliefs, provided they similarly do not interfere with public service and do not coerce others to participate. In the same vein, non-believers can pursue their own interests without prejudice or bias against them. In a very real sense, choosing not to interfere with what employees decide to do in their free time, whether it is to attend mass, pray, or participate in sports activities, provided it does not affect their work and the delivery of public service,

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[52] *Supra* note 8 at 206.
[53] *Id.*

carries an important secular purpose. It creates a satisfying working environment for our employees who can then perform their work with better efficiency.

Thus, while Justice Leonen argues that our decision to allow the Catholic masses provided they do not interfere with public service violates Section 29 of Article VI of the Constitution, I view the matter differently. This is not a circumstance where the Judiciary is consciously or purposively designating a particular public property for religious purposes. This is, in truth, a matter of allowing employees to pursue an activity that, while it may relate to religion, ultimately benefits the interest of the Judiciary. It ensures that we keep employee morale high and reaffirms that we care enough about our employees and their spiritual pursuits.

Further, there is no breach of the proscription against using public property to benefit a religion. I see no distinction between allowing employees to group together to attend mass in the Quezon City Hall of Justice in their free time and allowing them to use their workspace to pray, which Justice Leonen concedes in his dissent as valid. These two situations involve similar religious acts done in government property. It is not as if we allowed or funded the construction of a particular portion of the Quezon City Hall of Justice for the sole purpose of allowing Catholic Masses to be held there. The Quezon City Hall of Justice's basement remains to be an area dedicated for the use of the courts. That it sometimes becomes a venue, for a brief thirty-minute period during lunch break, of the activities of certain employees does not change the situation into one where the judiciary is allotting a public property for the benefit of a religion.

I note, however, that the matter of the display of Catholic images may be a different matter. I agree with the recommendation of the Court Administrator that Catholic images used for the Catholic mass must not be permanently stationed in the area. This is to avoid any impression that the Quezon City Trial Courts are endorsing a particular religion by allowing the building of a chapel exclusive for the use of Catholic employees. There is here a greater danger that we become entangled in the religious practice of Catholicism as well as greater likelihood that we be misconstrued to espouse Catholicism as a favored religion. This threatens to breach the wall of separation, and thus must be avoided.

To ensure that no espousal or sponsoring of the Catholic faith arises out of this case, the Executive Judges of the Regional Trial Court and Municipal Trial Court of Quezon City should be allowed to regulate the time, place, and manner of the holding of the Catholic masses at the Quezon City Hall of Justice. While the Catholic mass is traditionally held during lunch break at the basement of the Quezon City Hall of Justice, the Executive Judges of the trial courts should retain the authority to order its transfer to another area or its conduct at another time before or after office hours, when public service so demands.

Allowing Executive Judges to regulate the time, place, and manner of the Catholic masses by no means leads to excessive entanglement by the government in religious matters.

Excessive entanglement is part of a three part-test now known as the Lemon Test first used by the United States Supreme Court in *Lemon v. Kurtzman*.[54] *Lemon* involves the constitutionality of government aid to church-related elementary and secondary schools. To resolve the constitutional question presented before it, the United States Supreme Court applied a three-part test. A law which involves direct contact with religion is valid if, first, it has a secular legislative purpose. Second, the law's principal and primary effect must be one that neither advances nor inhibits religion. Third, the law must not foster an "excessive government entanglement with religion."[55] As to the third part of the test, now famously known as the excessive entanglement test, *Lemon* identified the criteria that make a law or government act one that excessively entangles the State in church affairs. These criteria are the "character and purposes of the institutions that are benefited, the nature of the aid that the State provides, and the resulting relationship between the government and religious authority."[56]

In *Lemon*, the United States Supreme Court found that the government aid granted to church-related schools led to excessive entanglement. It found that the schools that stood to benefit from the financial aid were characterized by "substantial religious activity and purpose." Further, it involved aid to schools where two-thirds of the teachers were nuns and the students were of an impressionable age. Furthermore, even when the law involved provided for means so that the State may ensure that no religious teaching is encouraged, these means would inevitably excessively entangle the government in religious matters.[57]

Nevertheless, *Lemon* recognized that "[s]ome relationship between government and religious organizations is inevitable." Thus, it held that "[f]ire inspections, buildings and zoning regulations, and state requirements under compulsory school attendance laws are examples of necessary and permissible contacts."[58]

In later cases where the United States Supreme Court found the need to apply the Lemon Test, the issue usually revolved around the grant of government aid to particular institutions or activities. Thus, the question of excessive entanglement can be said to arise when the circumstances pertain to a positive government act affecting identified beneficiaries.

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54 *Supra* note 43.
55 *Id.*, citing *Walz v. Tax Comm'n of City of New York*, 397 U.S. 664 (1970).
56 *Lemon v. Kurtzman, supra* note 43.
57 *Id.*
58 *Id.*

In my view, there can be no talk of excessive entanglement in a case as the one before us where the judiciary, in fact, does nothing to directly support any religious organization. The issue presented to us by Mr. Valenciano's letter is whether we must allow the Catholic masses voluntarily held by Catholic employees in their own free time or interfere in their religious practice because these are offensive to non-Catholics. There is no direct government action or policy involved. As *Lemon* teaches, there is a whale of a difference between excessive entanglement and necessary and permissible contact.

Moreover, even if we gratuitously assume that there is a question of excessive entanglement in this case, we can proceed to look at the criteria set forth in *Lemon* and arrive at the conclusion that no excessive entanglement exists.

First, as to the nature and character of the beneficiaries, allowing the Catholic masses does not benefit one particular religion. Allowing employees to practice their faith in the matter they deem fit, provided it does not interfere with their work and the freedom of religion of other employees, contributes to their well-being as our employees and is ultimately beneficial to us.

Second, as to the nature of the aid granted. The facts show that there truly is no aid being given by the judiciary in allowing the Catholic masses. The Quezon City trial courts have not required any attendance in the masses. They have not spent government funds for these activities. They have refused to dedicate any particular portion of the Quezon City Hall of Justice to these religious pursuits.

Third, the conduct of these Catholic masses creates no relationship between the judiciary and the Catholic Church. Even if the Executive Judges are to regulate the time, place, and manner of the conduct of these masses, any entanglement is so *de minimis* and by no stretch of the imagination can it be deemed as excessive. This is similar to zoning regulations which the United States Supreme Court held in *Lemon* as permissible contact between the State and the church. To assume that ascertaining whether the basement of the Quezon City Hall of Justice is available on lunch time for the conduct of a particular group of employees' activity will lead to excessive entanglement and will distract our judges from their duty is presumptuous and unfair. It assumes that our judges are incapable of so minimal a task as determining whether the activity of a group of Catholic employees may be held on a particular place in the Quezon City Hall of Justice on a particular day without immersing themselves in religious protestations. It also assumes that our judges are so easily distracted so as to be unable to dispense justice whenever they are saddled with minor administrative concerns.

In truth, the question asked of us in this case is whether we should leave the Catholic employees in the Quezon City Hall of Justice to practice

their faith in the manner they seem fit or whether we should interfere with their voluntary and private activity because it might be offensive to other people of a different religion or those with none at all. Our Constitution compels us to rule that we must let these employees be. There is no constitutional duty to prevent them from holding these masses. That it offends non-participants who may happen to witness the event is not a constitutionally recognized ground for regulating religious freedom. That some of us may not like something does not mean that we should stop it because it offends our sensibilities. The Constitution deals in matters far more important than our feelings and sentiments. It deals with fundamental freedoms that cannot be trifled with, much less on the basis of our personal biases.

Thus, I submit that the Catholic Mass regularly held at the Quezon City Hall of Justice should be allowed to continue subject to the conditions prescribed by the Office of the Court Administrator.

I vote to deny the prayer in Mr. Valenciano's letter. I agree with the *ponencia* that the Catholic masses and other religious practices in the Quezon City Hall of Justice should be allowed subject to regulation.

FRANCIS H. JARDELEZA
Associate Justice