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Examining the Cases Involving Jehovah's Witnesses in the Philippines: An Insight for Religious Freedom and Church-State Relations

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ABSTRACT

Jehovah's Witnesses (JW) are well-known for their refusal to engage in various political activities. Hence, the JW were involved in the Philippines' Supreme Court landmark case of Ebralinag vs. Division, which revolves around religious freedom. Although Ebralinag provides a bountiful discussion on religious freedom and church-state relations, there needs to be more clarity regarding JW's legal experiences and challenges in the Philippines. Limited attention has been given to reviewing the cases involving this religious group and the policies that affect them. Thus, in this context, the paper compiled and discussed cases where several Philippine laws and policies challenged the JW. The paper identified and looked into six cases wherein the members of the JW and the organization were involved. These cases touch on five policies: flag ceremonies, police power, military service, use of public property for religious purposes, and marriage. the JW used the clause on freedom of religion, right to public education, and freedom of speech as legal vanguards. Examining the cases and policies affecting the JW has presented how the courts weigh religious freedom and state authority and ensure a balance

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between the two. Moreover, JW cases validate the usual behavior in Philippine jurisprudence concerning religious freedom and church-state relations as both progressive and traditional.

Keywords: *Jehovah's Witnesses, religious freedom, secularism, church-state, Philippines*

1. Introduction

Jehovah's Witnesses (JW) is a millenarian Christian religion that differs from mainstream Christianity in its non-trinitarian views (James 2005). The denomination considers itself to be a restoration of first-century Christianity. JW emphasize using God's name and favor the form "Jehovah" (Holden 2002). A remarkable belief among JW is that they do not observe holidays such as Christmas. Furthermore, the JW is known for some peculiar political beliefs and a unique political socialization that engenders distinct political behavior. One such belief is the members' objection to military service and refusal to participate in flag ceremonies, which have brought them into conflicts with governments.

Such conflict was evident in the Philippines. The JW has been embroiled in a legal conflict against the Philippine government in the landmark case of *Ebralinag vs Division*.² *Ebralinag* is one of the renowned cases revolving around the Philippines' religious freedom and church-state relationship. While existing literature on religious freedom and church-state relations provides a general understanding of these concepts, more research should be done on JW's specific experiences and challenges in the Philippines. More attention should be given to analyzing the cases involving this religious group and the policies that affect them.

Moreover, even though *Ebralinag* is a landmark case and JW is renowned for its persistent legal challenges globally, there is a scarce

² *Ebralinag v. Division*, 219 SCRA 256 (1993),
https://lawphil.net/judjuris/juri1993/mar1993/gr_95770_1993.html.

source of literature depicting their legal and political role in the Philippines since the majority of literature would focus on the dominant groups, such as the Roman Catholic, *Iglesia ni Cristo* (INC), and Islam. Thus, in this context, the paper complies and discusses cases where several Philippine laws and policies challenged the JW. This paper intends to provide a comprehensive understanding of JW's interactions with laws and policies, as well as the implications for religious freedom and minority rights. Lastly, the outcome of this study aims to deepen knowledge and awareness of the challenges faced by religious minorities like JW in the Philippines, while also offering insights into broader issues of legal and political dynamics in the country.

2. Literature Review

Few studies provided insights into the group's political preference and neutrality. A survey showed that 75 percent of JW identified themselves as independents who do not lean toward the two dominant American political parties (Lipka 2016). According to Relman (2020), 1.3 million JW in the United States (US) remained apolitical and refused to join political activities. Similar studies in Canada (Penton 2007) and Russia (Vagramenko and Arqueros 2023) exhibited that JW declined to partake in political events in their countries. These studies also revealed different and distinctive political stances of JW compared to other religious groups.

JW's unusual political stance of neutrality created a legal spotlight in various countries, creating this historical narrative of how countries tolerate and integrate JW into society (Beiser and Stoklosa 2016). In other countries, the JW's religious freedom was restricted. Some governments would consider their beliefs aberrant, deviant, and anti-government, leading to the group facing legal and political dilemmas. For instance, Germany's 1997 Constitutional Court refused legal status to the JW for their political behaviors (Luca 2004, 46-48). The 1996 French Parliament's inter-ministerial policy called Mission to Combat Sect included the JW as a dangerous cult (Introvigne 2004, 81). The Russian Government banned the JW, maintaining that their literature incites extremism (Beard 2015).

In the US, several cases involve JW and their religious community. These cases are recognized as landmark civil rights cases (Gordon 2011). American law schools recognize the contributions made by the group to the defense of civil rights and shaping constitutional law in the US. Recently, even the Supreme Court Chief Justice recognized the role of JW in protecting religious freedom in the *Barnette*³ case (Roberts 2018).

In the Philippines, there is a scarcity of academic literature studying and depicting the political preferences and neutrality of the JW. The only well-known source that offers a snapshot was the legal case of *Ebralinag vs. Division. Ebralinag* brought public attention to the JW's political neutrality stance and their dissent on political activities such as flag ceremonies.

In brief, the Philippines' population is predominantly Roman Catholic. Filipinos initially practiced indigenous religions, but over 300 years of Spanish control instilled Catholicism in the nation. Though the US administration for half a century introduced Filipinos to different religions, the prevailing belief remains Catholicism, and the majority of people are Roman Catholics. The JW are considered to be part of the religious minorities in the Philippines, which accounts for 0.4% (PSA 2023).

3. Constitutionalism and Religious Freedom

Since the paper covers two institutions, namely, the state as a political institution and the JW as a religious institution, one of the main theories utilized is the principle of institutionalism. Institutionalism is a theoretical perspective that emphasizes the significance of institutions in shaping social behavior. Carl Friedrich introduced institutionalism to political science in the mid-twentieth century, arguing that constitutionalism was represented by a concern for individual liberty and institutional arrangements to avoid power accumulation (Sanders 2002, 53).

³ *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), <https://supreme.justia.com/cases/federal/us/319/624/>.

The Constitution primarily prescribes and dictates the Philippines' legal structure. The Philippines is known to incorporate the principle of liberalism in its constitutions. This tradition can be traced back to when the Americans introduced democracy to the country (Agpalo 1976, 140). The recent Constitution (1987) tends to be more liberal and progressive than its predecessors as a reaction to the former's authoritarian past. The 1987 Constitution intended to rebuild democratic institutions and design a 'freedom' and 'right-based' constitution (Bacanin 2018).

With the new constitution, liberal principles also exhibited how Philippine Courts handle and interpret cases. Chopra (2021) elucidated that there was a shift in the 'transformative' constitutional interpretation of the courts during the democratic transition in the Philippines in the 1980s. Pangalangan (2003, 18) argued that the 1987 Constitution encourages judicial activism, which "resulted in the relaxation of doctrines, for example, in liberalized rules of standing and justiciability."

Concerning liberalism, the Philippine Constitution offers the principles of secularism and pluralism in governing the relationship between the church and the state. The relationship became one of the significant issues in crafting the Philippine Constitutions of 1898, 1935, 1972, and 1987. The crafters affirmed the church-state separation in establishing the Philippines as a secular and democratic state.

Secularism states that the "Church should not intervene in purely political or temporal areas of man's life and the State, in questions of religion and morals, which are the sole concerns of the other" (Bernas 2009; De Leon 2014). One manifestation of secularism is stressing that the public sphere should be free from religious rules and teachings. On the one hand, the state is declared neutral on matters of spiritual belief and must neither directly support any religion nor impose religious practices upon its people (Bernas 2007). Another notion of secularism is that religious beliefs or practices should not affect public actions and decisions, particularly political ones (Kosmin and Hartford 2007, 25).

In the present Constitution, the principle of secularism is embodied in Article II, Section 6, which states, “The separation of Church and State shall be inviolable.” De Leon (2014) explains that the constitutional prohibition implies that “no law shall be made respecting an establishment of religion” (Article III, Section 5) and that “no public money or property shall ever be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution or system of religion” (Article VI, Section 29 [2]). The term “Church” in the Constitution covers all religious institutions or faiths.

The phrase “no law respecting an establishment of religion” has been called the “establishment of religion clause.” De Leon (2014) and Defensor-Santiago (2015) enumerates the following meanings of the clause:

- (1) The State shall have no official religion;
- (2) The State cannot set up a church, whether or not supported by public funds, nor aid one religion, aid all religions or prefer one religion over another;
- (3) Every person is free to profess belief or disbelief in any religion;
- (4) Every religious minister is free to practice his calling; and
- (5) The State cannot punish a person for entertaining or professing religious belief or disbeliefs.

Furthermore, to confirm with modern, secular, and democratic states, the Philippines exhibits a pluralist democracy. Newton and Van Deth (2008) define pluralism as a situation where power is dispersed among many groups and organizations that openly compete with one another in different political arenas, while a pluralist democracy is a theory in modern democracy arguing that political decisions are the outcomes of the conflict and competition between many other social movements, interest groups and organizations representing various interests.

Pluralist democracy thus encourages the political participation of many groups. The churches and religious groups find political involvement and influence under the church and state separation principle. Rebullida (2006, 76) stated in the framework of democracy and pluralism that these churches exercise rights derived from the

Philippine Constitution to function as organizations and groups and opt to participate (or not to participate) in elections, interest articulation, legislation, and policy formulation.

Secularism also embeds the principle of political neutrality. Kuru (2009) states that state neutrality towards religions can be divided into strict and benevolent neutrality. Strict or assertive neutrality attempts to exclude religion in public life, while benevolent or passive neutrality requires the state to have a passive role that allows public visibility of religion. As expounded by Dy (2008), strict neutrality suggests an absolute separation where both institutions must not cross with each other, while benevolent neutrality suggests that both institutions accommodate one another. The Philippine Constitution manifests benevolent neutrality (David 2015; *Estrada* 2006). With a flexible reading of principles, benevolent neutrality respects religious facts, traditions, and established practices. Consistent with the sociological notion that religion performs a crucial function in the survival of society.

The Constitution guarantees religious freedom, which is exhibited in Article III, Section 5, about secularism and benevolent neutrality. The constitutional provision provides three clauses: non-establishment of religion, free exercise, and no religious test. The first clause, “no law shall be made respecting an establishment of religion,” aligns with the principle of secularism. The second clause pertains to the free exercise phrase. Bernas (2009) and De Leon (2014) mentioned that religious freedom has two aspects. The first pertains to the freedom to believe in a religion. Everyone has the unalienable right to believe whatever he wants. A state may not compel religious belief or deny any person any right or benefit based on their religious views or lack thereof. The second refers to the freedom to act on such beliefs. The right to act based on one’s beliefs is not and cannot be absolute. De Leon (2014) elaborated that “conduct remains subject to regulation and even prohibition for the protection of society.” In *Cantwell vs. Connecticut* (1940),⁴ a case JW were involved, as cited by Bernas (2009), the free exercise of religion provides:

⁴ *Cantwell v. Connecticut*, 310 U.S. 296 (1940),
<https://www.oyez.org/cases/1940-1955/310us296>.

The constitutional inhibition on legislation on the subject of religion has a double aspect. On the other hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religion organization or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the amendment embraces two concepts – freedom to believe and freedom to act. The first is absolute, but in the nature of things, the second cannot be. (304)

Adhering with Bernas (2009), De Leon (2014, 149) expounded that these two notions of “religious freedom and belief demonstrate and convey that religion may not be used to explain actions or refusals to act that is inconsistent with public safety, morals, or the general welfare of society, or that contravene public criminal law.” As a result, no one has the right to refuse to defend the country during times of war, to refuse to pay taxes, to practice polygamy, or to violate the rights of others in the name of religion.

Through the provided structures, the Constitution guarantees religious liberty and freedom for religious groups, such as the JW, but under constitutional boundaries. This requires and challenges state actors, particularly the courts, to manage religious freedom issues and balance church-state relations. Moreover, former Supreme Court Chief Justice Hilario David Jr., expounded those cases revolving around religious freedom “articulate progressive social and global understandings in religious affairs and yet remains steadfastly faithful to traditional, formalist, and originalist notions of religious freedom and separation of church and state” (David 2014, 2). As the author argues, this behavior is observable in the cases involving JW.

4. Method

Inspired by the *Ebralinag* case, the paper explored other cases where the members of the JW and the organization were involved. Through archival research, and documentary analysis, the paper identified six cases that reached the Appellate Courts. Various

Affected Laws and Policies	Cases	Legal Vanguard used by the JW	Verdict of the Courts towards the JW
B. Exercise of police power (Section 2194, paragraph c, Revised Administrative Code)	<i>Ignacio vs. Ela</i> , 99 Phil. 346 (1956)	Freedom of speech and right of the people peaceably to assemble [Article III, Section 1 (8) – 1935 Phil. Constitution]	Not in favour
C. Military Service National Defense Act (Commonwealth Act No. 1)	Valid Secular Policy vs. Freedom of Religion [Annotation from <i>Ebralinag vs. Division</i> (1993)]	Freedom of Religion (Article III, Section 5, 1987 Philippine Constitution)	Not in favour
D. Use of Public Property for Religious Purposes [Article VI, Section 13 (3) – 1935 Phil. Constitution]	<i>People vs. Fernandez, et al.</i> , C.A.-G.R. No. 1128-R, (1948)	Use of Public Property for Religious Purposes [Article VI, Section 13 (3) – 1935 Phil. Constitution]	In favour
E. Marriage <ul style="list-style-type: none"> • Revised Administrative Code - Book V, Title I, Chapter VI, Sec. 46(b)(5) • The Family Code of the Philippines - Article 1 • Revised Penal Code-Article 334 	<i>Estrada vs. Escritor</i> , SCRA 492, (2006)	Freedom of Religion (Article III, Section 5, 1987 Philippine Constitution)	In favour

5.1. Flag Ceremonies

The Flag Salute Law (Republic Act No 1265),⁵ Flag and Heraldic Code of the Philippines (Republic Act No. 8491),⁶

⁵ Republic Act No. 1265, An Act of Making Flag Ceremony Compulsory in All Educational Institutions, https://lawphil.net/statutes/repacts/ra1955/ra_1265_1955.html.

⁶ Republic Act No. 8491, Flag and Heraldic Code of the Philippines, <https://www.officialgazette.gov.ph/1998/02/12/republic-act-no-8491/>.

Department Order No. 8 of July 21, 1955, and Administrative Code of 1987⁷ governs the proper decorum during flag ceremonies.

Two notable 1993 cases, namely, *Ebralinag vs. Division* and *Amolo vs. Division*, involved 43 high school and elementary students (*Ebralinag*) and 25 high school and elementary students (*Amolo*), all are JW members. Cebu Authorities dismissed the JW pupils from their various public schools for refusing to salute the flag, sing the national anthem, or repeat the patriotic pledge which is required by Republic Act (RA) No. 1265 and Department Order No. 8 of July 21, 1955 of the Department of Education, Culture and Sports (DECS). Section 1 and 3 of RA No. 1265 provides:

Sec. 1. All educational institutions shall henceforth observe flag ceremony, which shall be simple and dignified and shall include the playing or singing of the Philippine National Anthem...

Sec. 3. Failure or refusal to observe the flag ceremony provided by this Act and in accordance with rules and regulations issued by the Secretary of Education, after proper notice and hearing, shall subject the educational institution concerned and its head to public censure as an administrative punishment which shall be published at least once in a newspaper of general circulation.

There are also previous cases before *Ebralinag* and *Amolo* (decision internalized in *Ebralinag*) that have been raised among JW students for violating flag ceremony laws. These are raised in *Gerona et al. vs. Secretary of Education*⁸ (1959) and *Balbuna et al., vs. Secretary of Education* (1960).⁹

These cases basically raise one issue: “Whether school children who are members of a religious sect known as JW may be

⁷ Executive Order No. 292, s. 1987, Administrative Code of 1987, <https://www.officialgazette.gov.ph/1987/07/25/executive-order-no-292-s-1987/>.

⁸ *Gerona et al. vs. Secretary of Education*, et al., 106 Phil. 2 (1959), https://lawphil.net/judjuris/juri1959/aug1959/gr_1-13954_1959.html.

⁹ *Balbuna et al. vs. Secretary of Education*, 110 Phil. 150 (1960), https://lawphil.net/judjuris/juri1960/nov1960/gr_1-14283_1960.html.

expelled from school (both private and public) for refusing, on account of their religious beliefs, to take part in the flag ceremony which includes playing or singing the Philippine national anthem, saluting the Philippine flag and reciting the patriotic pledge” (*Ebralinag* 1993).

In the early cases, the Supreme Court in the *Gerona* (1959) and *Balbuna* (1960) cases upheld the expulsion of the students. The Court in *Balbuna* as cited in *Ebralinag* (1993) reiterated that:

The flag is not an image but a symbol of the Republic of the Philippines... Under a system of complete separation of church and state in the government, the flag is utterly devoid of religious significance. Saluting the flag does not involve any religious ceremony. The children of Jehovah’s Witnesses cannot be exempted from participating in the flag ceremony. They have no valid right to such exemption. Moreover, exemption to the requirement will disrupt school discipline and demoralize the rest of the school population which by far constitutes the great majority. (para. 3 – 4)

Section 28, Chapter 9 of the Administrative Code of 1987 (Executive Order No. 292), which took effect on September 21, 1988, in respect to RA No. 1265 and the *Gerona* judgment. Section 28, paragraph 5 accords legislative weight to *Gerona’s* decision: “(5) After an investigation, any instructor, student, or learner who refuses to join or participate in the flag ceremony may be terminated.”

Thirty years later, RA No. 1265, Department Order No. 8, series of 1955, and the ruling in the *Gerona* and *Balbuna* were challenged. The Supreme Court in the *Ebralinag* case believed that the verdict in *Gerona* should be re-examined. The idea that one may be compelled to obey RA No. 1265 on “fear of being expelled from school or dismissed from one’s job or, is unfamiliar to the conscience of the present-day generation of Filipinos who asserts the Bill of Rights which guarantees freedom of speech and exercise of religious profession and worship” (Bernas 2007; *Ebralinag vs. Division* 1993).

In *German vs. Barangan*,¹⁰ Chief Justice Enrique Fernando in his separate opinion stated, “Religious freedom is a fundamental right which is entitled to the highest priority and the amplest protection among human rights, for it involves the relationship of man to his Creator” (*Ebralinag* 1993).

Justice Aquino, the ponente of the Court, elaborated the principle of religious freedom. Aquino as cited by Cruz (2007, 25) quoted:

The right to religious profession and worship has two-fold aspect, vis., freedom to believe and freedom to act on one’s belief. The first is absolute as long as the belief is confined within the realm of thought. The second is subject to regulation where the belief is translated into external acts that affect the public welfare. (*Ebralinag* 1993)

The Supreme Court in the end unanimously ruled (13 voted for it, 1 abstained and 1 was on leave) in favor of the Witnesses and annulled the expulsion. The Court followed the doctrine laid down in *West Virginia vs. Barnette* of the US Supreme Court, which the ponente has quoted, as cited by Bernas (2007):

To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds... When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter such. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things touch the heart of the existing order. (*Ebralinag* 1993)

5.2. Exercise of Police Power

The principle of freedom of speech has been a vanguard of the propagation activities of the JW. Concerning Article III, Section 5, or

¹⁰ *German v. Barangan*, 135 SCRA 515 (1985),
<https://www.chanrobles.com/cralaw/1985marchdecisions.php?id=121>.

the principle of religious freedom, JW has the constitutional guarantee to disseminate its religious beliefs. Since JW are widely known for their religious propagation through preaching or proselytizing, Bible studies, and assemblies, the provision allows them to share their beliefs with others and to seek to entice them to their faith.

However, there are some limitations to Section 5. De Leon (2014, 149) argued that “any restraint on the right to proselytize religious ideas and information can only be justified (like other restraints on freedom of expression) on the ground that there should be clear and eminent danger of any substantial evil that the State has the right to prevent.” The freedom of expression is still subjected to the regulation by the State. To an extent, the right may be detrimental to an individual or group or clear and present danger when abused. The constitution, therefore, states that freedom of expression is not absolute.

It must be noted that the provision about freedom of speech and religious freedom in the Philippine Constitution has been adopted from the First and Fourth Amendments of the US Constitution. In fact, some cases in the US ruled on these rights, which the Philippine Court noted (*Ignacio* 1956).

In *Fowler vs. State of Rhode Island* (1953),¹¹ a municipal ordinance was created, making it a criminal offense to address a religious meeting in a public park. In *Jamison vs. Texas* (1943),¹² the Texas Court prohibited the distribution of religious pamphlets. As a response, JW in both cases insisted that their guarantee of religious freedom and freedom of speech had been violated. Both courts favored the Witnesses. The courts emphasized that the State may not intervene in the religious activities of the JW. The US Supreme Court declared in *Fowler* a violation of the First and Fourteenth Amendments that a municipal ordinance was created, making it a criminal offense to address a religious meeting in a public park. In *Jamison*, the Court

¹¹ *Fowler v. Rhode Island*, 345 U.S. 67 (1953),
<https://supreme.justia.com/cases/federal/us/345/67/>.

¹² *Jamison v. Texas*, 318 U.S. 413 (1943),
<https://supreme.justia.com/cases/federal/us/318/413/>.

insisted that the State may not prohibit the distribution of any religious material in pursuing religious activities (Coquiao 2007).

However, in the Philippines, cases involving their exercise of freedom of speech were decided differently. The Supreme Court held that the right to freedom of speech and religion is not absolute. In *Ignacio vs. Ela* (1956),¹³ JW petitioners Fernando Ignacio and Simeon de la Cruz applied and got a permit to use the kiosk of the plaza in Sta. Cruz, Zambales, for their religious meeting and propagation. But the respondent, Municipal Mayor Norberto Ela, permitted them to use a part of the plaza. In response, the petitioners argued that they should be permitted to utilize the town plaza itself, including the kiosk, because it allegedly violated their constitutionally granted rights to free speech, assembly, and religion.

Based on the facts, the mayor argued that he did not violate their constitutional rights and even offered to utilize a portion of the town plaza. The mayor further maintained that he was only employing his police authority to manage the meeting in order to maintain public order and safety and avoid any incidents because the plaza was near the Roman Catholic Church.

In support of the mayor's action, the Supreme Court concluded that the right to free speech, assembly, and religion may be controlled to protect the rights of individuals, the community, or society by using the State's police power (Coquiao 2007). The Court in *Ignacio* asserted that the right to preserve one's life by exerting police power to regulate public order and safety weighs more than the right to freedom of speech and religion of the JW petitioners.

5.3. Military Service

After the *Ebralinag* case, the Supreme Court began revisiting the laws and policies that could affect religious sects such as the JW. The Philippine Supreme Court studied Conscientious Objector cases (mostly JW) in the US. This would provide insights into when the

¹³ *Ignacio vs. Ela*, 99 Phil. 346 (1956),
https://lawphil.net/judjuris/juri1956/may1956/gr_1-6858_1956.html.

Court will encounter such cases in the future. Such reviews were annotated in *Ebralinag*.

From the Court's annotations in *Ebralinag*, a series of cases were filed against several members of the JW in the US. As a response, JW members countered the cases by exhausting all legal means. In *Buttecali vs. United States* (1943),¹⁴ JW claimed that they were entitled to exemption from military training and service of duty since they were ministers of religion as provided by the Selective Training and Service Act of 1940¹⁵. The JW argued they were "ministers of religion" as to what the Act meant. They all claimed that they were ministers of religion by distributing religious pamphlets.

However, the Federal Court decision defined a "minister of religion" to be one whom, as cited in Coquiao (2007):

First, finished a prescribed course of the study of religion;
Second, consecrated to the service of living and teaching that religion through an ordination ceremony under the auspices of an established Church;

Third, has been commissioned by that Church as its minister; and

Fourth, is subjected to control or discipline by the council of that Church (pp.343-344).

The Federal Court in *Rase vs. United States* (1942),¹⁶ and *Checinski vs. United States* (1942)¹⁷ refused to exempt them since it appeared that the "defendants used only a portion of their time in religious activities such as distributing religious literature and devoting much of their time as to other activities such as working on farms, storekeepers, and carpentry." In most cases, JW members' classification as ministers of religion was denied (Coquiao 2007).

¹⁴ *Buttecali vs United States* (1943), <https://case-law.vlex.com/vid/united-states-v-buttecali-886411126>.

¹⁵ Selective Training and Service Act of 1940. 50 U.S.C. 301 (1940), <https://www.loc.gov/item/uscode1940-005050a003/>.

¹⁶ *Rase v. United States*, 6 Cir., 129 F.2d 204, 209 (1942), <https://casetext.com/case/rase-v-united-states>.

¹⁷ *Checinski v. United States*, 129 F.2d 461 (1942), <https://law.justia.com/cases/federal/appellate-courts/F2/129/461/1483606/>.

Although the JW are the most known conscientious objectors worldwide, there are still no cases from religious groups regarding compulsory military service in the Philippines. However, a similar religious sect claimed exemption from mandatory military training under the National Defense Act¹⁸ on religious grounds. This is the Seventh-Day Adventist. In an opinion rendered by the Secretary of Justice, as cited by Coquiao (2007, 621), it was held for the following conscientious objectors:

Religious freedom may be limited by a reasonable exercise of police power. Compulsory military service under the National Defense Act is intended to advance public welfare in accordance with Article II, Section 4 of the Constitution of the Philippines to the effect that “the defense of the State is the prime duty of government, and in fulfilment of this duty all citizens may be required by law to render personal military or civil service.

Furthermore, the Court conclude that religious freedom may be held limited by reasonable exercise of police power for the survival of the state. Annotated in the *Ebralinag* case, in *Hamilton vs. Board of Regents* (1934),¹⁹ the Court significantly concluded:

We are a Christian people according to one another the equal right of religious freedom and acknowledging with reverence the duty of obedience to the will of God. But, also, we are a nation with the duty to survive; a Nation whose Constitution contemplates war as well as peace, whose government must go forward upon the assumption, and safely can proceed upon no other, that unqualified allegiance to the Nation and submission and obedience to the laws of the land, as well as those made for war as those made for peace, are not inconsistent with the will of God. (289)

¹⁸ Commonwealth Act No. 1. National Defense Act of 1935, <https://www.officialgazette.gov.ph/1935/12/21/commonwealth-act-no-1/>.

¹⁹ *Hamilton v. Board of Regents*, 293 U.S. 245 (1934), <https://supreme.justia.com/cases/federal/us/293/245/>.

Thus, the Court imposes that regardless of religious beliefs and convictions, one must render military service when the State calls upon so.

5.4. Use of Public Property for Religious Purposes

Under policies related to appropriation, Article V, Section 13 of the 1935 Philippine Constitution provides that “the State does not inhibit the use of the public property when the religious character of such use is merely incidental to temporary use, available indiscriminately to the public in general.” JW is known for assemblies or gatherings requiring large facilities to house their members. In some options, the religious organization opted to use government facilities as a venue for their assemblies, leading to a question of law regarding the usage of public property for religious purposes.

In *People vs. Fernandez et al.* (1948),²⁰ the JW leased a public auditorium for a three-day convention. On the ground that the convention was purely a religious activity and as public property could not be lawfully used for such purpose under the Constitution, the governor of the province, Enrique Braganza, ordered the JW to vacate the premises. Despite this order, the JW continued its convention (Coquiao 2007). In reversing the trial court conviction, the Court of Appeals ruled:

The use of the public building by a religious sect is not inhibited by the Constitution when it is opened for lease to the public... that the Province of Pangasinan allowed the Jehovah’s Witnesses to use the premises, not because they presumably constituted a religious organization or intended to hold a convention allegedly of a religious nature, but on consideration of the fees by said organization. (*People vs. Fernandez* 1948)

Article VI, Section 13 also provides that the prohibition is not violated based on the following grounds. First, “when the use of public property for religious purposes is incidental and temporary and is

²⁰ *People vs. Fernandez, et al.*, C.A.-G.R. No. 1128-R, May, 1948; XIII Lawyers’ J. 295,

compatible with the use to which other community members are entitled or may be authorized to make”²¹ (*Aglipay* 1937). Second, when the payment is based on a contract. In *Millard vs. Board of Education*²² (1886), as expounded by Cruz (2007) and De Leon (2014), rents paid by churches or sectarian institutions for the use of public property do not violate the constitutional provision since the public receives the full benefit of its contract.

5.5. Marriage Vows

Another case revolving around the State and the JW focuses on the institution of family and marriage. The case involved Soledad Escritor, a member of the JW.²³ Escritor met Luciano Quilapio Jr. in the late 1970’s. At that time, both were in floundering marriages. Eventually, both separated from their spouses. In 1980, they decided to live together without having their previous marriages annulled. In 1991, the couple decided to formalize their union (Vitug 2011).

With both of them still roped to their marriages, they opted to sign a “Declaration of Pledging Faithfulness,” similar to a wedding ceremony. It is unique to the JW and is used only in countries where divorce is prohibited. The couple’s record has been inscribed in the JW’s Philippine central office (Vitug 2011).

In *Estrada vs. Escritor* (2006), the following are manifested:

Declaration of Pledging Faithfulness

I, Soledad S. Escritor, do hereby declare that I have accepted Luciano D. Quilapio, Jr., as my mate in marital relationship; that have done all within my ability to obtain legal recognition of this relationship by the proper public authorities and that it is because of having been unable to do

²¹ See *Aglipay vs Ruiz*, 64 PHIL 201 (1937), https://lawphil.net/judjuris/juri1937/mar1937/gr_1-45459_1937.html.

²² *Millard v. Board of Education*, 19 Ill. App. 48 (1886), <https://cite.case.law/ill-app/19/48/>.

²³ See *Estrada vs. Escritor*, SCRA 492 (2006), <https://www.chanrobles.com/cralaw/2006junedecisions.php?id=614>.

so that I therefore make this public declaration pledging faithfulness in this marital relationship.

I recognize this relationship as a binding tie before ‘Jehovah’ God and before all persons to be held to and honoured in full accord with the principles of God’s Word. I will continue to seek the means to obtain legal recognition of this relationship by the civil authorities and if at any future time a change in circumstances make this possible, I promise to legalize this union.

Signed this 28th day of July 1991

The JW viewed the declaration as “a putting of oneself on record before God and man that the signer will be just as faithful to his or her existing marital relationship as he or she would be if the union were one validated by civil authorities” (*The Watchtower* 1977, 17).

After marriage, Escritor joined the judiciary and worked as a regional trial court interpreter in Las Pinas. The complainant, Alejandro Estrada, knowing that the couple lived together without having their previous marriages annulled, protested that Escritor “should not be allowed to remain employed in the judiciary for gross, disgraceful, and immoral conduct” (*Estrada* 2006). The ground of the complaint is based on Book V, Title I, Chapter VI, Sec. 46(b)(5) of the Revised Administrative Code supplements The Family Code of the Philippines,²⁴ Article 1, the provision about marriage, and Article 334 of the Revised Penal Code²⁵ outlawing concubinage.

Escritor attested that she was already a widow when she entered the judiciary in 1999 (Vitug 2011). Her husband passed away in 1988. She acknowledged that she began living with Quilapio more than two decades ago, without the benefit of marriage, when her husband was still alive but living with another lady (Vitug 2011). She also said that she and Quilapio have a child. However, as a JW, Escritor claims that their conjugal arrangement is by their religious

²⁴ Executive Order No. 209, s. 1987. Family Code of the Philippines.

<https://www.officialgazette.gov.ph/1987/07/06/executive-order-no-209-s-1987/>,

²⁵ Act No. 3815. Revised Penal Code,

https://lawphil.net/statutes/acts/act_3815_1930.html.

convictions and has the support of her community. She offered her Declaration of Pledging Faithfulness as evidence. The marital arrangement between Escritor and Quilapio is not immoral in the eyes of the congregation (*Estrada* 2006).

The Court had to assess the principle of religious freedom under Article III, Section 5 of the Constitution by referencing the congregation's religious beliefs and practices, stating that her marriage arrangement does not constitute disgraceful and immoral conduct (*Estrada* 2006).

In the rulings of *Estrada*, the Court provided a distinction between secular morality and religious morality. The Court only extends to secular morality. Furthermore, the case provided two compelling interests, the individual's interest in religious freedom and the state's interest in protecting marriage and family as basic institutions and preserving the integrity of workers of the judiciary.

The Court states that the Philippine Constitution adheres to benevolent neutrality. The Court in *Estrada* (2006) ruled in this manner:

The Court states that our Constitution adheres to benevolent neutrality approach that gives room for accommodation of religious exercises as required by the Free Exercise Clause. This benevolent neutrality could "allow for accommodation of morality based on religion, provided it does not offend compelling state interests. (*Estrada* 2006)

Benevolent neutrality, as demonstrated in numerous cases involving religion, safeguards religious realities, traditions, and established practices through a flexible reading of principles. Consistent with the sociological notion that religion performs a crucial function in the survival of civilization. This approach is used in the Philippine Constitution to preserve religious liberty (*Estrada* 2006).

The Supreme Court handed down its judgment in favor of Escritor in its second proceedings in 2006. However, Justice Carpio, in favor of Escritor, looked at the issue from a different standpoint. For Carpio, as cited in *Estrada* (2006), in the past proceeding, it was plain

that Escritor's conduct was "that of a concubine under Article 334 of the Revised Penal Code. Escritor may now be subjected to disciplinary sanction for conduct prejudicial to the best interest of the service."

In a favorable response, Carpio in his dissenting opinion, found Escritor's conduct as "neither disgraceful nor immoral" since she and Quilapio were fully accepted by their religious and social community and their arrangement had "not created any scandal, moral outrage or malicious gossip in their congregation and community" (*Estrada* 2006). But Carpio also said:

The Court cannot simply turn a blind eye to the conduct of a court employee, by the employee's own admission, violates our criminal statutes. Such conduct is prejudicial to the best interest of the administration of justice. The courts of justice cannot harbour those who openly and knowingly commit a crime. Courts of justice would lose their moral authority and credibility if they condone violators of law. (*Estrada* 2006)

Furthermore, the Court accepts that "Escritor's conjugal arrangement cannot be penalized because she has presented a case for legal exemption based on her fundamental right to religious freedom" (*Estrada* 2006). Justice Puno said that "the free exercise of religion is a fundamental right that enjoys a preferred position in the hierarchy of rights." He also captured the essence of the majority decision in 2006, stating that:

The Court recognizes that state interests must be upheld to that freedoms – including religious freedom – may be enjoyed. In the area of religious exercise as preferred freedom, in the absence of a showing that such state interest exists, man must be allowed to subscribe to the infinite. (*Estrada* 2006)

6. Conclusion

By identifying and compiling the cases involving JW, this paper supplements an additional picture of church-state relations in the

Philippines, overshadowed by religious organizations such as the Roman Catholic Church, INC, and Islam. Moreover, this paper presents a comprehensive understanding of the cases faced by JW and shows the effect of such government laws and policies on their religious practice and beliefs.

These legal embattlements of the JW revolve around policies related to flag ceremonies, police power, military service, use of public property for religious purposes, and marriage. As a constitutional guarantee, the JW primarily utilized religious freedom to defend themselves. Other clauses, such as the right to public education and freedom of speech, were also used to protect their members.

Moreover, examining the policies affecting the JW has presented how the courts weigh religious freedom and state authority and ensure a balance between the two. The JW cases also confirm how Chief Justice David describes Philippine jurisprudence and state actors regarding religious freedom and separation of church and state as “progressive and yet traditionalist, as well as comparative and dialogic” (David 2014, 2). Specifically, the results of the majority of their legal cases present that the state, particularly the Court, has shifted and shown a liberal attitude as manifested due to religious freedom and adopts the principle of benevolent neutrality towards the JW as long as it provides that it does not contradict public safety and interests.

7. Recommendations

Given the legal experiences of JW in the Philippines, legal practitioners, policymakers, and religious freedom advocates should deepen their understanding of the specific challenges faced by the JW. This can be accomplished through awareness campaigns and seminar workshops focusing on the interaction of law, religion, and human rights. For the academe, these topics, together with the JW cases, can be integrated into the curriculum of social sciences, religion, philosophy, and law courses.

Moreover, religious freedom advocates should propose policy reforms to safeguard the religious freedom of all individuals and communities, including JW. This could involve reviewing existing laws to ensure it uphold religious freedom, non-discrimination, and the separation of church and state. Alternative policies that would be constructive for both the state and JW can also be proposed.

Lastly, initiatives conducted should encourage interfaith dialogue and collaboration among JW and government agencies to promote mutual respect, understanding, and cooperation. Opportunities for addressing common challenges and advancing shared values can be identified and pursued by fostering constructive engagement. This can be achieved through roundtable discussions comprising representatives from each group, which will tackle issues related to religious freedom or even conduct joint initiatives on shared values, such as community services, donation drives, and disaster relief operations.

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