

# Weaponising Religious Freedom: Same-Sex Marriage and Gender Equality in the Philippines

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## Abstract

This article spells out the ways in which religious freedom has been deployed against proponents of same-sex marriage and gender equality in the Philippines. While the lesbian, gay, bisexual, transgender, and queer (LGBTQ) community and allies have appealed to religious freedom to gain equal rights under the law, conservative Christian entities have fought back by invoking the same notion. They have appropriated religious freedom, which has historically been interpreted by the courts in favour of individual liberties, to defend majoritarian values surrounding sexuality. This article describes this move as the weaponisation of religious freedom in defence of the dominant religion and an assumed majority of Filipinos whose moral sensibilities are purportedly under attack. Towards the end, the article relates this weaponisation to the experience of the Catholic Church in the contemporary public sphere and the militant character of Christianity that continues to view the Philippines as a Christian nation.

## Keywords

Philippines – religious freedom – gender equality – same-sex marriage – LGBTQ rights – Christianity

## 1 Introduction: LGBTQ-Friendly Society?

There are claims that the Philippines is among the ‘most gay-friendly countries in the world’.<sup>1</sup> Public acceptance is high with 73 per cent of Filipino adults agreeing that ‘society should accept homosexuality’.<sup>2</sup> In fact, Pew’s global survey shows that among 37 participating countries, the Philippines is tenth in terms of public acceptance. That this is the case seems counterintuitive given the fact that the country is also among the most religious societies in the world.<sup>3</sup> This makes the Philippines an outlier in Pew’s report that a strong negative correlation exists between religiosity and acceptance of homosexuality.

Intergenerational change accompanies this openness. Acceptance varies across different age brackets: 60 per cent among 50 years old and above, 71 per cent among 30–49, and 78 per cent among 18–29.<sup>4</sup> But this generational shift is not an isolated trend. It has accompanied too cultural shifts in relation to gender stereotypes. One example is the changing discourses surrounding *bakla* (Filipino term for gay) which is no longer simply associated with effeminacy. To be *bakla* in recent years has taken on new meanings. Local films now feature characters in which non-effeminate homosexuals are willing to self-identify as gays and men at once.<sup>5</sup> In the realm of politics, the recent election of the first transgender representative in Congress was widely celebrated.<sup>6</sup> Although she comes from a political dynasty herself, the arrival of Representative Geraldine Roman marks a milestone in rendering visible queer identities in the political sphere. She achieved what was elusive for the party *Ladlad*, which tried on several occasions to make it to Congress as a lesbian, gay, bisexual, transgender, and queer (LGBTQ) party. Although *Ladlad* has never won a seat in Congress,

1 Leila Salaverria, ‘PH LGBT-friendly, but 61% oppose Same-Sex Marriage’, *Inquirer.net*, 1 July 2018 <http://www.newsinfo.inquirer.net/1005757/ph-lgbt-friendly-but-61-oppose-same-sex-marriage>, 7 November 2018.

2 Pew Research Center, *The Global Divide on Homosexuality*, 27 May 2014, <http://www.pewresearch.org/wp-content/uploads/sites/2/2014/05/Pew-Global-Attitudes-Homosexuality-Report-REVISED-MAY-27-2014.pdf>, accessed 8 November 2018.

3 Tom W. Smith, ‘Beliefs about God across Time and Countries’, 2012, [www.norc.umd.edu/pdfs/beliefs\\_about\\_god\\_report.pdf](http://www.norc.umd.edu/pdfs/beliefs_about_god_report.pdf), 9 March 2013.

4 Pew Research Center, *supra* note 2.

5 Ronald Baytan, ‘Bading na Bading: Evolving Identities in Philippine Cinema’, in F. Martin et al (eds.), *AsiaPacifiQueer: Rethinking Genders and Sexualities* (Champaign, IL: University of Illinois Press, 2008), pp. 181–196.

6 Heather Chen, ‘Geraldine Roman: First Transgender Politician elected in the Philippines’, *BBC News*, 10 May 2016, <[www.bbc.com/news/world-asia-36253666](http://www.bbc.com/news/world-asia-36253666)>, 7 November 2018.

what it began as a forerunner of queer activism in earlier years has helped form a community among sexual minorities.<sup>7</sup>

To be sure, to claim that Philippine society accepts homosexuality can also be misleading. In another survey, Pew Research Center reports that 65 per cent of Filipino adults believe that homosexuality is 'morally unacceptable'.<sup>8</sup> That this view is embraced by the majority explains why prominent politicians like Manny Pacquiao can readily claim that homosexual couples are 'worse than animals'.<sup>9</sup> There are cases of gender-based violence too, some of which are high profile. In 2014, Jennifer Laude, a transgender woman, was killed by US Marine Lance Corporal Joseph Scott Pemberton. In social media, remarks justified Pemberton's acts for not knowing that Laude was a transgender woman when they checked into the motel where she was later found dead.<sup>10</sup> In terms of marital arrangements, same-sex couples remain unrecognised by the law. The absence of legal recognition means that same-sex couples cannot have the economic benefits and government assistance available for married heterosexual couples. Public opinion backs the status quo. Sixty-one per cent of Filipinos oppose the civil union of same-sex couples.<sup>11</sup>

## 2 Argument

This introductory vignette shows that generational and cultural shifts are taking place in contemporary Philippine society. The shifts in themselves bring to surface the tensions surrounding gender equality. Specifically, these shifts provide an opening to challenge the enduring marginalisation of the LGBTQ

7 Cheryll Soriano, 'Constructing Collectivity in Diversity: Online Political Mobilization of a National LGBT Political Party', 36:1 *Media, Culture & Society* (2014), pp. 20–36.

8 Pew Research Center, *Global Views on Morality: The Philippines*, 2013, <http://www.pewglobal.org/2014/04/15/global-morality/country/philippines/>, accessed 8 November 2018.

9 Rappler.com, Pacquiao: Couples in Same-Sex Unions 'worse than Animals', *Rappler*, 16 February 2016, [www.rappler.com/move-ph/122620-pacquiao-lgbt-same-sex-unions-worse-animals](http://www.rappler.com/move-ph/122620-pacquiao-lgbt-same-sex-unions-worse-animals), 8 November 2018.

10 Buena Bernal, 'Remarks vs Laude reflect deep-seated Prejudice—CHR', *Rappler*, 25 October 2014, [www.rappler.com/nation/54946-supreme-court-rh-law-constitutional](http://www.rappler.com/nation/54946-supreme-court-rh-law-constitutional), 16 November 2018.

11 Social Weather Stations, 'First Quarter 2018 Social Weather Survey: 61% of Pinoys oppose, and 22% support, a Law that will allow the Civil Union of Two Men or Two Women', *Social Weather Stations*, 29 June 2018, [www.sws.org.ph/swsmain/artcldisplay/?artcsyscode=ART-20180629215050&mc\\_cid=a2766c3641&mc\\_eid=1c2e0bac70](http://www.sws.org.ph/swsmain/artcldisplay/?artcsyscode=ART-20180629215050&mc_cid=a2766c3641&mc_eid=1c2e0bac70), 7 November 2018.

community. Recently, unprecedented moves have been initiated to advance their rights and interests in the country. One is called the SOGIE Equality Bill. It is a proposed legislation to prevent different forms of discrimination based on *sexual orientation and gender identity or expression* (acronym for SOGIE). Another move is about recognising same-sex marriage. But instead of pushing for it in Congress, a lawyer filed a petition with the Supreme Court to challenge the constitutionality of the country's longstanding Family Code.

How does Christianity, the country's dominant religion, respond to these initiatives? This question is important because it nuances how the Philippines is an outlier in the global patterns described above. These moves for same-sex marriage and gender equality test the influence of religious fundamentalism, which dominates moral worldviews surrounding marriage, family life, and sexuality in Philippine society.<sup>12</sup> In fact, for the proposed law itself, gender equality means prohibiting 'discrimination, marginalization and violence' based on sexual orientation or gender identity or expression.<sup>13</sup> In this light, gender equality does not only mean equality between men and women, but among persons of all SOGIE. In our view, although these moves have been arrested as of late, the fact that they entered the public sphere is in itself a testament to changes in the acceptability of homosexuality and other gender-related issues. To analyse their fortunes at this point is significant because they will recur as generational and cultural shifts carry on.<sup>14</sup> They will challenge religious and moral boundaries in this predominantly Christian country.<sup>15</sup>

It is in this light that our interest in religious freedom comes to the fore. As we will discuss in the succeeding sections, the proponents of the SOGIE Equality Bill and same-sex marriage have not only framed their arguments using legal and economic terms. They have also appealed to religious freedom, a move that contests the influence of conservative Christian groups in policy-making. Queer Filipinos and their allies are using religious freedom in their struggle to gain equal rights.

But as we also intend to demonstrate in this article, this move has been met with resistance from influential Christian entities—Catholic and otherwise.

12 Jayeel S. Cornelio, 'The Philippines', in K. Ross, T. Johnson, and F. Alvarez (eds.), *Edinburgh Companions to Global Christianity: Christianity in East and South-East Asia* (Edinburgh: Edinburgh University Press, 2020).

13 17th Congress, *An Act Prohibiting Discrimination on the Basis of Sexual Orientation or Gender Identity or Expression (SOGIE) and Providing Penalties Therefor*, (House Bill 4982), 2.

14 Robert Turner, 'The Philippines: Make Way for the Baklas', *The Gay & Lesbian Review Worldwide* (September 2017), p. 28.

15 Jayeel S. Cornelio, *Being Catholic in the Contemporary Philippines: Young People Reinterpreting Religion*, (London and New York: Routledge, 2016).

The resistance invokes religious freedom too. In what follows, we will show how religious freedom, which has historically been interpreted by the courts in favour of individual liberties, has been appropriated to invoke the prevailing conservative values.<sup>16</sup> We show that the weaponisation of religious freedom by the dominant religious bloc is a relatively new innovation in the Philippines. Specifically, religious freedom is used in defence of the dominant religion and an assumed majority of Filipinos whose moral sensibilities are purportedly under attack.<sup>17</sup> Towards the end of the article, we account for this weaponisation by relating it to the experience of the Catholic Church in the contemporary public sphere and the militant character of Christianity in the Philippines.

### 3 Religious Freedom and LGBTQ Rights

Religious freedom is presented in the literature in two ways. Although in principle it emphasises an individual's right to religious belief and practice, there are states that prioritise the interests of the majority. Thus, as far as religious freedom is concerned, a tension exists between the welfare of individuals (especially minorities) and the values of the majority (who may not agree with the advocacy of the former). Various cases involving religious freedom and LGBTQ rights around the world exemplify this tension. Crucial here is the role of the state in adjudicating conflicts.

#### 3.1 *Whose Interests?*

Religious freedom is enshrined in the 1948 Universal Declaration of Human Rights.<sup>18</sup> The right to religious freedom—or the freedom of thought, conscience, religion and belief—is meant as a right not for religions but for human beings, ‘who—as individuals and in community with others—are the direct holders of this right’.<sup>19</sup> This stems from ‘the experience of an irreversible pluralism in matters of religion and world view’, wherein giving specific religions legal protections would mean discriminating others.<sup>20</sup> By adopting the

16 Jayeel S. Cornelio, ‘Religious Freedom in the Philippines: From Legalities to Lived Experience’, 11:2 *The Review of Faith and International Affairs* (2017), pp. 36–45.

17 See Travis Gasper, ‘A Religious Right to Discriminate: Hobby Lobby and ‘Religious Freedom’ as a Threat to the LGBT Community’, 3:2 *Texas A&M Law Review* (2015), pp. 395–416.

18 It was effectively enforced as international law in Article 18 of the 1966 International Covenant on Civil and Political Rights. Heiner Bielefeldt, ‘Religious Freedom: A Disputed Human Right’, 2 *Concilium International Journal of Theology* (2016), pp. 37–47.

19 *Ibid.*, p. 39.

20 *Ibid.*

pertinent international legal frameworks, states are expected to be the guarantors of religious freedom, but this right can only be 'effectively established in cooperation between state and non-state actors'.<sup>21</sup>

While religious freedom is a universal human right, how it is applied is complex in different contexts. Thus, Bader notes that religious freedom is not an 'absolute right' and 'does not exist in a vacuum'.<sup>22</sup> Indeed the concept has been deployed in different ways over time. Tracing the history of religious freedom in American public life, Wenger unpacks how it is an 'eminently malleable discourse, a shared cultural value that has been defined and deployed in a wide variety of ways'.<sup>23</sup> On the one hand, its 'most audible varieties'<sup>24</sup> helped white American Christians 'mark their own superiority and the civilisational inadequacies of those they governed', particularly Filipinos, African Americans, and Native Americans.<sup>25</sup> On the other, these communities have used religious freedom to assert their own traditions.

As religious freedom involves both private belief and public choices<sup>26</sup> (as in the case of businesses owned by religious individuals), secular liberal democracies face the delicate task of qualifying this right once it enters the public sphere and stands in contrast to other civil rights.<sup>27</sup> States have to confront too the dual implications of religious freedom as both negative freedom (freedom from interference) and positive freedom (freedom to believe and practice).<sup>28</sup> We will show in the next section how these limits are tested.

Differences surface according to context too. Wilfred differentiates Western and Asian perspectives.<sup>29</sup> In advanced societies in the West, religious freedom is generally defined as a 'matter of conscience'.<sup>30</sup> The Asian experience sees religious freedom as 'first and foremost a community issue', and 'often a matter

21 *Ibid.*, p. 47.

22 Veit Bader, 'Religious Freedoms and Other Human Rights, Moral Conundrums and Hardcases', in *Secularism or Democracy?: Associational Governance of Religious Diversity* (Amsterdam: Amsterdam University Press, 2007), pp. 129–130.

23 Tisa Wenger, *Religious Freedom: The Contested History of an American Ideal* (Chapel Hill, NC: The University of North Carolina Press, 2017), p. 235.

24 *Ibid.*, p. 1.

25 *Ibid.*, p. 235.

26 Rex Tauati Ahdar, 'The Vulnerability of Religious Liberty in Liberal States', 4:2–3 *Religion & Human Rights* (2009), pp. 177–195.

27 Carl F. Stychin, 'Faith in the Future: Sexuality, Religion and the Public Sphere', 29:4 *Oxford Journal of Legal Studies* (Winter 2009), pp. 729–755.

28 Bader, *supra* note 22, pp. 129–152.

29 Felix Wilfred, 'Religious Freedom in Asia', 2 *Concilium International Journal of Theology* (2016), pp. 63–74.

30 *Ibid.*, p. 63.

of sub-nationalities and ethnicity'.<sup>31</sup> Given the region's immense religious diversity, an Asian perspective on religious freedom considers not only the individual's freedom or a religious community's immunity from the state, but the protection of religious minorities as well.<sup>32</sup> Wilfred demonstrates this point by categorising three situations in Asia.

First is when religious identity overlaps with race and ethnic identity. There are countries that treat national identity and religious identity as one. They have designated the majority religion as state religion or with special legal status. Examples are Buddhists in Sri Lanka, Thailand, and Myanmar, and Muslims in Pakistan, Bangladesh, and Malaysia. The second situation deals with control of all religions by the centralised state, as seen in the communist countries of China and Vietnam.<sup>33</sup> While China came out with a statement on religious freedom in its 1982 Constitution, religions—especially foreign ones such as Christianity and Islam—are still highly restricted and regulated, as they are seen as potentially 'destabilising' forces.<sup>34</sup> The last situation deals with countries with a clear secular and democratic base such as India and the Philippines. Legally speaking, these states do not define religious freedom according to the religion of their majority.<sup>35</sup> As far as their legal frameworks are concerned, religious freedom is protected as an individual liberty.

### 3.2 *Adjudicating Freedoms*

One area where the limits of religious freedom is tested is in its engagement—or 'irreconcilable clash'—with the ascendant LGBTQ rights movement.<sup>36</sup> Some religious actors see the passage of pro-LGBTQ legislation as an affront to their deeply-held beliefs on sexuality, marriage, and the family. Different cases worldwide demonstrate how the state plays an active role to define religious freedom and even adjudicate conflicting interests. What is tested in the end is whether religious freedom should favour individual rights or the majority's interests. Several illustrations are called for.

Western liberal democracies with a diverse populace tend to uphold the secular nature of the state and the public sphere in adjudicating conflicts between religious freedom and LGBTQ rights. Smet notes that state institutions in the US, UK, and the Netherlands have 'decisively and unequivocally sided

<sup>31</sup> *Ibid.*, pp. 72–73.

<sup>32</sup> *Ibid.*, pp. 63–74.

<sup>33</sup> *Ibid.*, p. 65.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*, pp. 63–74.

<sup>36</sup> Stychin, *supra* note 27, p. 729.



with same-sex equality<sup>37</sup> when pitted against religious freedom. For instance, in cases involving civil servants refusing to perform same-sex marriages due to their beliefs, courts in Canada, France, and the United Kingdom refused to grant religious exemptions as they would compromise the state's neutral and secular nature.<sup>38</sup> Analysing similar cases from the UK and the Netherlands, Smet posits that claims based on conscientious objection were prohibited because they exceed the 'limits of toleration'.<sup>39</sup> The United Kingdom Supreme Court also upheld a same-sex couple's claim of unlawful discrimination against a bed and breakfast that denied them lodging because of the owner's religious beliefs.<sup>40</sup> The Court concluded that the freedom of religion 'is limited where it conflicts with the rights of others'.<sup>41</sup> In Canada, the British Columbia Human Rights Tribunal ruled in *Eadie v. Riverbend Bed and Breakfast* that 'when [business] owners entered into commercial sphere, they were required to comply with the human rights laws governing it'.<sup>42</sup> In effect, the aforementioned cases have placed a limit on claims to religious freedom when they interfere with the civil rights of LGBTQ individuals.

In other cases, however, the religious interests of influential groups are decisive in turning down moves for gender-related issues. Singapore, for example, generally employs a statist approach to religious freedom. This approach is often articulated in the interest of national unity. In the case of LGBTQ rights, the state has shown that it can accommodate and even appropriate religious interests in pursuing its communitarian objectives. But Obendorf observes that Christianity 'has gained a powerful influence over Singapore's religious and cultural landscape', which helps in shaping 'social responses to the issue of homosexuality'.<sup>43</sup> To appease both conservative and LGBTQ rights advocates, Singapore's parliament decided to retain but not 'proactively en-

37 Stijn Smet, 'Conscientious Objection to Same-Sex Marriages: Beyond the Limits of Toleration', 11:2 *Religion and Human Rights* (2016), pp. 114–139.

38 International Network of Civil Liberties Organizations, *Drawing the Line: Tackling Tensions Between Religious Freedom and Equality*, September 2015, [www.cels.org.ar/common/documentos/DrawingtheLine.pdf](http://www.cels.org.ar/common/documentos/DrawingtheLine.pdf), accessed 17 October 2018.

39 Notably, the key liberal principle of toleration was earlier used by philosophers John Locke and Pierre Bayle to defend some religious adherents against state repression. Smet, *supra* note 37.

40 International Network of Civil Liberties Organizations, *supra* note 38.

41 *Ibid.*, p. 13.

42 *Ibid.*, p. 14.

43 Simon Obendorf, 'A Few Respectable Steps behind the World? Gay and Lesbian Rights in Contemporary Singapore', in C. Lennox and M. Waites (eds.), *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth* (London: School of Advanced Study, University of London, Institute of Commonwealth Studies, 2013), pp. 231–259.



force' Section 377A of the colonial-era Penal Code, which prohibits oral and anal sex between consenting adult men.<sup>44</sup> While Prime Minister Lee Hsien Loong recognised changing attitudes to gay rights worldwide, he feared that the intensifying debate between conservatives and gay activists may become 'counter-productive' and give 'less space for the gay community'.<sup>45</sup> Lee proposed a wait-and-see attitude, allowing for 'the situation to evolve gradually', and 'watch how things work out elsewhere' before making any 'irrevocable moves'.<sup>46</sup>

There are also other cases wherein religious and national identities are intimately linked against the interests of the LGBTQ community. In the sultanate of Brunei Darussalam—the first Southeast Asian country to implement a strict form of Islamic criminal law—Muslims and non-Muslims found guilty of engaging in homosexual intercourse can be punished by stoning to death.<sup>47</sup> The strict implementation of Shari'a is the government's way of protecting Islam's privileged position, which includes 'curb[ing] the influences of other religions' to 'ensure that harmony and peace are maintained'.<sup>48</sup> The intimate link between religion and nation is also evident in other regions. Many countries in Latin America, where the Catholic Church still enjoys cultural and political influence, have seen an 'incomplete process' of 'political secularisation'.<sup>49</sup> Vaggione thus observes that 'civil law has established privileges and exclusions as a way to preserve a sexual hierarchy according to religious doctrine'.<sup>50</sup> In Uganda, where the government tried to push for an Anti-Homosexuality Bill in 2009, homosexuality was branded as 'un-African'.<sup>51</sup> In a move that echoes neocolonialism, right-wing American evangelicals have globalised their culture wars from home by forging ties with African leaders to influence and align legislation with conservative beliefs about gender and sexuality.<sup>52</sup>

44 Human Rights Resource Centre, *Keeping the Faith: A Study on Freedom of Thought, Conscience, and Religion in ASEAN*, January 2015, [www.hrrca.org/wp-content/uploads/2015/11/Book-of-Keeping-the-Faith\\_web.pdf](http://www.hrrca.org/wp-content/uploads/2015/11/Book-of-Keeping-the-Faith_web.pdf), accessed 24 October 2018.

45 *Ibid.*, p. 458.

46 *Ibid.*, p. 459.

47 *Ibid.*

48 *Ibid.*, p. 66.

49 Juan Marco Vaggione, 'Sexuality, Law, and Religion in Latin America: Frameworks in Tension', 8:1 *Religion & Gender* (2018), p. 21.

50 *Ibid.*, p. 19.

51 Kristen Cheney, 'Locating Neocolonialism, 'Tradition', and Human Rights in Uganda's 'Gay Death Penalty'', 55:2 *African Studies Review* (September 2012), p. 83.

52 Kapya Kaoma, *Globalizing the Culture Wars: US Conservatives, African Churches & Homophobia*, 2009, Political Research Associates, <[www.politicalresearch.org/wp-content/uploads/downloads/2012/11/africa-full-report.pdf](http://www.politicalresearch.org/wp-content/uploads/downloads/2012/11/africa-full-report.pdf)>, 14 November 2018.

### 3.3 *The Role of Non-State Actors*

Our discussion of the literature thus far has shown how religious freedom as individual liberty is tested against the interests of the majority. In many cases, it has tested the secular character of states and the businesses that operate in these places even if religious individuals might own them. Crucial here is the role of the state in articulating what religious freedom means in relation to gender issues. There are two broad camps. Many states have interpreted religious freedom as an individual right. The rights of LGBTQ individuals are generally upheld as a result. In other regimes, religious freedom privileges the prevailing morality of the community. In these cases, the advocacies of the LGBTQ sector are overruled.

There are international norms that tend to emphasise religious freedom as an individual right.<sup>53</sup> But legal regimes are primarily shaped by local contexts in which the meaning of religious freedom is ultimately outlined.<sup>54</sup> For example, the tension between religious freedom and discrimination remains to be settled. This is certainly the case in the US, which has a longstanding view of religious freedom as individual liberty. But it needs to be squared with the civil rights of LGBTQ individuals. The recent case involving Jack Phillips, a Colorado baker who refused to prepare a wedding cake for a gay couple because of his religious convictions, exemplifies this tension. The Supreme Court eventually overturned the initial decision of the Colorado Civil Rights Commission. The ruling, however, did not touch on the question of religious exemptions for businesses. In the decision, Justice Anthony Kennedy, who wrote for the majority, even upheld the gay couple's right to equal dignity by reaffirming *Obergefell v. Hodges*, which legalised same-sex marriage nationwide.<sup>55</sup>

Although scholarship has for the most part focused on the role of the state in adjudicating religious freedom, we also argue that it is equally important to give attention to the way it is deployed by other non-state actors. Religious groups matter in this regard. Religious and faith-based groups are seen as 'strong veto players' that can make the struggle for LGBTQ rights more

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- 53 Elizabeth Shakman Hurd, 'Believing in Religious Freedom', in W.F. Sullivan, et al. (eds.), *Politics of Religious Freedom* (Chicago and London: University of Chicago Press, 2015), pp. 45–56; Winnifred Fallers Sullivan, et al. 'Introduction', in W.F. Sullivan, et al. (eds.), *Politics of Religious Freedom* (Chicago and London: University of Chicago Press, 2015), pp. 1–9.
  - 54 Li-Ann Thio, 'Courting Religion: The Judge between Caesar and God in Asian Courts', *Singapore Journal of Legal Studies* (2009), pp. 52–79.
  - 55 *Masterpiece Cakeshop, Ltd., et al. v. Colorado Civil Rights Commission*, 4 June 2018, Supreme Court of the United States, 584 U.S. (2018).

difficult.<sup>56</sup> The Singapore case, as described above, testifies to this point. Obendorf notes that the Singapore government's need to 'appear secular and non-discriminatory has led to the emergence of a vocal, assertive, Christian movement mobilising around "hot-button" issues such as homosexuality in the interests of defining a moral vision for the nation'.<sup>57</sup> A similar case is evident too in Latin America where conservative Catholics and Evangelicals have also devised new ways to resist moves for gender equality.<sup>58</sup> Vaggione notes that the Catholic Church in the region has employed two strategies: intensifying its secular arguments and establishing the pro-life/pro-family movement among the laity.<sup>59</sup> In Colombia, conservative lay Catholics in government have taken on the role of religious activists by intimidating and disciplining judges who issued licenses to same-sex couples at the time when its legal status was still unclear.<sup>60</sup> A compelling motivation for these religious actors is religious nationalism, which compels state actors to favour the dominant religious group.<sup>61</sup> Religious nationalism in this regard is not just about professing a religious identity but also subscribing to its interpretation of sexual moralities. Failure to uphold these sexual norms can be readily interpreted as being unfaithful to both religion and the nation.

In the context of our research, we take inspiration from the work of Gasper<sup>62</sup> in the US and Leviste<sup>63</sup> in the Philippines. They have shown how religious actors can be strategic in advancing their interests by pushing the boundaries of legal definitions. Specifically, our study interrogates how religious groups use religious freedom as a discursive tool to lobby their positions in the

56 Javier Corrales, 'The Politics of LGBT Rights in Latin America and the Caribbean: Research Agendas', 100 *European Review of Latin American and Caribbean Studies* (December 2015), p. 54.

57 Obendorf, *supra* note 43, p. 239.

58 Sara Garbagnoli, 'Against the Heresy of Immanence: Vatican's 'Gender' as a New Rhetorical Device Against the Denaturalization of the Sexual Order', 6:2 *Religion & Gender* (2016), pp. 187–204; Mario Pecheny, et al, 'Sexual Politics and Religious Actors in Argentina', 6:2 *Religion & Gender* (2016), pp. 205–225.

59 Vaggione, *supra* note 49.

60 Mauricio Albarracin and Julieta Lemaitre, 'The Crusade against Same-Sex Marriage in Colombia', 8:1 *Religion & Gender* (2018), pp. 32–49.

61 Jaclyn Neo, 'Religious Freedom and the ASEAN Human Rights Declaration: Prospects and Challenges', 14:4 *The Review of Faith & International Affairs* (2016), pp. 1–15.

62 Gasper, *supra* note 17.

63 Enrique Niño Leviste, 'In the Name of Fathers, in Defense of Mothers: Hegemony, Resistance, and the Catholic Church on the Philippine Population Policy', 64:1 *Philippine Sociological Review* (2016), pp. 5–44.

public sphere. We note Moyn's<sup>64</sup> discussion on the conservative Catholic and Evangelical Protestant alliance in the US defending religious freedom and religion's role in the public sphere. He points out that both groups—which were previously wary of the idea—pivoted towards religious freedom in response to social changes, including increasing diversity and secularism. This leads us to our research question: How is religious freedom deployed as discourse by dominant religious institutions to lobby against progressive policies for gender equality and same-sex marriage? We answer this question in the next section.

#### 4 Discussion

The Catholic Church and its conservative allies from other religions have actively blocked legislative measures pushing for LGBTQ rights since they were first filed in the 1990s.<sup>65</sup> Historically, the conservative discourse has appealed to the morality of a presumed majority of Filipinos whose beliefs are aligned with theirs. Echoing the literature above, we argue that a shift in the discourse is discernible. In the early years of the debate for gender equality in Congress, religious legislators rejected the moves out of moral panic over homosexuality in the Philippines.<sup>66</sup> But in recent years, influential Christian figures have appropriated religious freedom in arguing against same-sex marriage and gender equality. Religious freedom is now used to articulate a defence for the presumed majority's values. Yet we also find that the historically marginalised LGBTQ sector and allies have turned to religious freedom in struggling for more equal rights. While our chronology follows the progress of specific bills in Congress and a case in the Supreme Court, we focus on the discourses that emanated from religious groups and individuals.

64 Samuel Moyn, 'Religious Freedom between Truth and Tactic' in W.F. Sullivan, et al. (eds.), *Politics of Religious Freedom* (Chicago: University of Chicago Press, 2013), pp. 135–141.

65 GALANG Philippines, *Policy Audit: Social Protection Policies and Urban Poor LBTs in the Philippines*, 2013; United Nations Development Programme and United States Agency for International Development, *Being LGBT in Asia: The Philippines Country Report*, 2014, [www.usaid.gov/sites/default/files/documents/1861/2014%20UNDP-USAID%20Philippines%20LGBT%20Country%20Report%20-%20FINAL.pdf](http://www.usaid.gov/sites/default/files/documents/1861/2014%20UNDP-USAID%20Philippines%20LGBT%20Country%20Report%20-%20FINAL.pdf), accessed 15 October 2018.

66 Julius Bautista, 'Church and State in the Philippines: Tackling Life Issues in a 'Culture of Death'', 25:1 *SOJOURN: Journal of Social Issues in Southeast Asia* (2010), pp. 29–53; Anne Raffin and Jayeel S. Cornelio, 'The Catholic Church and Education as Sources of Institutional Panic in the Philippines', 37:5 *Asian Journal of Social Science* (2009), pp. 778–798.

#### 4.1 *Moral Panic*

In March 1999, Isabela representative Bellaflor Angara-Castillo filed the Lesbian and Gay Rights Act, which aimed to recognise gay and lesbian domestic partnerships. This was the first time that a bill of this kind was proposed in Congress. Gay activist and professor Danton Remoto recalled in a speech that both the conservative Catholic group Opus Dei and Muslim separatists Moro National Liberation Front and Moro Islamic Liberation Front released 'strong statements' opposing the bill.<sup>67</sup> However, LGBTQ rights organisations questioned the lack of consultations on the bill.<sup>68</sup>

The first Anti-Discrimination Bill, which aimed to 'define and penalise practices that unjustly discriminate against gays and lesbians',<sup>69</sup> was filed in 2000 by Akbayan party list representative Etta Rosales and Senator Miriam Defensor-Santiago during the 11th Congress (1998–2001). As the 12th Congress (2001–2004) was about to close, the House of Representatives passed on third reading Rosales' Anti-Discrimination Bill. But the Senate was not able to pass its own version as politicians were already gearing up for elections.<sup>70</sup>

Rosales filed another version of the bill as soon as the 13th Congress (2004–2007) opened in July 2004. Senators Defensor-Santiago and Bong Revilla filed their own counterpart measures in the Senate as well. It took two years for Revilla's bill to get a public hearing under the Senate's labour, employment and human resources development committee.<sup>71</sup> The measure intended to prohibit and penalise discriminatory practices based on gender such as denying access to public services, employment, and education and forcing a medical test to determine one's sexual orientation or gender identity.<sup>72</sup>

67 Danton Remoto, 'On Same-Sex Marriage and Spirituality', *Philstar.com*, 13 February 2006, <[www.philstar.com/lifestyle/arts-and-culture/2006/02/13/321516/same-sex-marriage-and-spirituality](http://www.philstar.com/lifestyle/arts-and-culture/2006/02/13/321516/same-sex-marriage-and-spirituality)>, 28 November 2018.

68 J. Neil C. Garcia, *Philippine Gay Culture: Binabae to Bakla, Silahis to MSM*, 2nd ed. (Quezon City: The University of the Philippines Press, 2008).

69 'House Bill/Resolution History: HB09095—11th Congress (1999–2001)', [www.congress.gov.ph/legis/](http://www.congress.gov.ph/legis/), accessed 5 November 2018.

70 Danton Remoto, 'Gay and Lesbian Rights Bill Goes Pffft in the Senate', *Philstar.Com*, 16 February 2004, <[www.philstar.com/lifestyle/arts-and-culture/2004/02/16/239248/gay-and-lesbian-rights-bill-goes-pffft-senate](http://www.philstar.com/lifestyle/arts-and-culture/2004/02/16/239248/gay-and-lesbian-rights-bill-goes-pffft-senate)>, 28 November 2018.

71 Philippine Center for Investigative Journalism, 'Senate to Tackle Bill Penalizing Prejudicial Treatment of Gay Community', *The PCIJ Blog*, 4 August 2006, <[www.pcij.org/blog/2006/08/04/senate-to-tackle-bill-penalizing-discrimination-vs-lesbians-gays-bisexuals-and-transgenders](http://www.pcij.org/blog/2006/08/04/senate-to-tackle-bill-penalizing-discrimination-vs-lesbians-gays-bisexuals-and-transgenders)>, 12 November 2018.

72 Senate of the Philippines, *An Act Prohibiting Discrimination on the Basis of Sexual Orientation and Gender Identity and Providing Penalties Therefor*, 23 August 2004, [www.senate.gov.ph/lisdata/294925221.pdf](http://www.senate.gov.ph/lisdata/294925221.pdf).

Meanwhile, Rosales' bill fell victim to political manoeuvrings, as well as active obstruction by religious conservatives. After supporting the impeachment complaint against then embattled President Gloria Macapagal-Arroyo, Rosales was ousted as chair of the House human rights committee in 2006.<sup>73</sup> Benny Abante, the representative of Manila's sixth district and a Baptist pastor, took over her committee as well as jurisdiction of the Anti-Discrimination Bill. By that time, Rosales' committee already approved the bill and was up for second reading.

But Abante made headlines when he vowed to block the bill on grounds that it would promote 'morally reprehensible' sexuality.<sup>74</sup> In another interview, he argued that the bill is not a 'human rights issue', but a 'moral one'.<sup>75</sup> In a privilege speech before Congress, Abante raised the rhetoric by calling on his colleagues to reject a 'culture of death'.<sup>76</sup> To him it would mean 'death to the most cherished Filipino values of godliness and moral rectitude'. Citing the Constitution's reference to 'Almighty God' in the preamble, Abante claimed that making laws should be 'guided by what is right before God'.<sup>77</sup> He also refuted what he considered essentialist arguments from the LGBTQ community, saying that the bill's passage would 'encourage social aberrations as well as moral decadence through unconventional lifestyles that will come to pass as acceptable norms of conduct'. Indeed, to show how the bill offends the morality of the entire nation, Abante did not only quote Biblical verses that tackle homosexuality, but also those from the Hadith and the Qur'an. He then warned that passing the Anti-Discrimination Bill would 'abet sin and ungodliness' and 'invite the wrath of God upon ourselves and our God-loving nation'.<sup>78</sup>

73 Lagablab, "House Committee on Human Rights Chairperson Calls Homosexuality 'Morally Reprehensible'", *Lagablab*, 21 October 2006, <[www.lagablab.wordpress.com/2006/10/21/house-committee-on-human-rights-chairperson-calls-homosexuality-morally-reprehensible/](http://www.lagablab.wordpress.com/2006/10/21/house-committee-on-human-rights-chairperson-calls-homosexuality-morally-reprehensible/)>, 5 November 2018.

74 *Ibid.*

75 Fidel Jimenez, 'Pro-Gay Bill Not a Rights Issue—House HR Chair', *GMA News Online*, 16 November 2006, <[www.gmanetwork.com/news/news/nation/21146/pro-gay-bill-not-a-rights-issue-house-hr-chair/story/](http://www.gmanetwork.com/news/news/nation/21146/pro-gay-bill-not-a-rights-issue-house-hr-chair/story/)>, 9 November 2018.

76 Here, Abante echoes the late Pope John Paul II, who first used the phrase in his 1995 encyclical *Evangelium vitae* that reaffirmed the Catholic Church's teachings on the sanctity of human life. The document tackled issues such as abortion, euthanasia, contraception, and embryonic stem cell research. John Paul II, *Evangelium Vitae*, 25 March 1995, [w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html), accessed 28 November 2018.

77 Bienvenido Jr. Abante, 'Rejecting A Culture of Death', 20 November 2006, [www.lagablab.files.wordpress.com/2006/11/abante-speech.pdf](http://www.lagablab.files.wordpress.com/2006/11/abante-speech.pdf), accessed 20 November 2018.

78 *Ibid.*

Throughout his speech, religious freedom was mentioned only once while quoting an American political analyst. He quoted Hess as saying that the 'religious freedoms of vast numbers of Americans will be put in jeopardy if same-sex relationships, marriages are legalised'.<sup>79</sup> The congressman did not elaborate on the statement but warned that the nation may 'suffer the same fate that befell Sodom and Gomorrah, and lately, New Orleans', referring to the 2005 Hurricane Katrina disaster. Although only in passing, this was arguably the first time that religious freedom as an idea was brought up in any legislative deliberation on an LGBTQ-related measure.

In a show of force, he brought with him 200 supporters from different churches.<sup>80</sup> Representatives from parishes of the Roman Catholic Diocese of Caloocan, 'ex-gay' group COURAGE, Believers League for Morality and Democracy, the Philippine Council of Evangelical Churches, Alliance of Baptist Councils, International Baptist Ministry Association, and the Bible Baptist Fellowship of the Philippines came.<sup>81</sup> Abante claimed that they represented 35,000 churches around the country.<sup>82</sup> Some of these groups also released a statement rejecting the bill as it 'legitimises homosexuality and lesbianism as acceptable lifestyles in the Philippine society', even if 'the Bible clearly speaks against homosexuality and lesbianism as practices that are ungodly and wrong'.<sup>83</sup> The groups questioned the factual basis of LGBTQ oppression and claimed that the bill may pave the way for same-sex marriage.

A dominant feature of Abante's speech and the statements of other religious groups that supported him was that they all reflected moral panic over homosexuality. This was to be expected because finally, gender equality in favour of the LGBTQ community was making its presence felt in the legislative process. This was unprecedented in what was in the eyes of many people and the Catholic hierarchy a religious nation.<sup>84</sup> Indeed, two days before his privilege speech, Abante held an assembly of 1,000 Baptists to call for 'moral

79 *Ibid.*

80 Lagablab, 'House Human Rights Chair: Anti-Discrimination Bill to Invite Wrath of God', *Lagablab*, 22 November 2006, <[www.lagablab.wordpress.com/2006/11/22/abante-speech/#more-151](http://www.lagablab.wordpress.com/2006/11/22/abante-speech/#more-151)>, 9 November 2018.

81 Abante, *supra* note 77.

82 *Ibid.*

83 Fidel Jimenez, 'Baptists move to block pro-gay Bill at House', *GMA News Online*, 19 November 2006, <[www.gmanetwork.com/news/news/nation/21424/baptists-move-to-block-pro-gay-bill-at-house/story/](http://www.gmanetwork.com/news/news/nation/21424/baptists-move-to-block-pro-gay-bill-at-house/story/)>, 20 November 2018.

84 Jose Mario Francisco, 'People of God, People of the Nation: Official Catholic Discourse on Nation and Nationalism', 62:3–4 *Philippine Studies: Historical and Ethnographic Viewpoints* 62 (2014), pp. 341–376.



righteousness'.<sup>85</sup> Other issues at the same time were taking the attention of Congress, notably the Reproductive Health Bill. Religious critics associated this bill with moral decline, promiscuity, and abortion. Thus, for influential Christian leaders, that the move for the Reproductive Health Bill coincided with that for gender equality indicated that a 'culture of death' was taking shape in Philippine society.<sup>86</sup> When Human Rights Watch named Abante to their 'Hall of Shame' because of his opposition to the bill, the group noted that 'US-based religious groups working in the Philippines' had been working against the bill by promoting 'the idea that homosexuality is a "curable" behaviour and a "perverse deathstyle"'.<sup>87</sup> Abante's obstruction bore fruit, as the Anti-Discrimination Bill never passed the House of Representatives.

#### 4.2 *Religious Freedom, the Dominant Religion, and Filipino Values*

Later on, in the 15th Congress (2010–2013), legal protection against LGBTQ discrimination was almost enacted when the Senate included it as part of the Anti-Ethnic or Racial Profiling and Discrimination Act. Conservative senator Vicente Sotto III was successful in amending it so that it would not lead to same-sex marriage.<sup>88</sup> The Senate unanimously passed the bill on third reading in 2011.<sup>89</sup> It was at this point that the Catholic Bishops' Conference of the Philippines (CBCP) leapt into action.

The shift in the discourse is noticeable. In a press conference on 7 December 2011, CBCP lawyer Jo Imbong argued that the bill violates religious freedom and the 'no prior restraint' principle in freedom of speech. For the CBCP, the government may not penalise a religious group from 'excluding a person from Church responsibilities ... based upon that person's moral behaviour which could include the practice or promotion of homosexuality'.<sup>90</sup> Religious freedom at this time was becoming a clear position of the Church. Indeed, Imbong also insisted that the bill hinders the Catholic Church from preaching its doctrine. Ronald Reyes, another CBCP lawyer, claimed that the legislation

85 Jimenez, *supra* note 83.

86 Bautista, *supra* note 66, p. 36; Raffin and Cornelio, *supra* note 66.

87 'The 2007 Hall of Shame', *Human Rights Watch*, 15 May 2007, [www.hrw.org/news/2007/05/15/2007-hall-shame](http://www.hrw.org/news/2007/05/15/2007-hall-shame), accessed 20 November 2018.

88 Senate of the Philippines, *Journal*, 14 November 2011, p. 525, <[www.senate.gov.ph/lisdata/1241612604!.pdf](http://www.senate.gov.ph/lisdata/1241612604!.pdf)>, 12 November 2018.

89 Senate of the Philippines, *Journal*, 21 November 2011, p. 692, <[www.senate.gov.ph/lisdata/1264712609!.pdf](http://www.senate.gov.ph/lisdata/1264712609!.pdf)>, 12 November 2018.

90 Niña Calleja, 'CBCP Wants Anti-Discrimination Bill Cleansed on Provisions on Gay Rights', *Inquirer.Net*, 7 December 2011, <[www.newsinfo.inquirer.net/106981/cbcp-wants-anti-discrimination-bill-cleansed-of-provisions-on-gay-rights](http://www.newsinfo.inquirer.net/106981/cbcp-wants-anti-discrimination-bill-cleansed-of-provisions-on-gay-rights)>, 5 November 2018.

might punish the Catholic Church for not officiating same-sex marriage.<sup>91</sup> The CBCP's Episcopal Commission on Family and Life also lobbied for the removal of the LGBTQ provision from the bill.<sup>92</sup> In August 2012, Ifugao Representative Teddy Baguilat revealed that the bill was being delayed by some senators, including Sotto, who wanted to remove the LGBTQ provisions.<sup>93</sup> Ultimately, the bill was not passed.

It is no surprise that these pronouncements coincided with Benedict XVI's papacy, seen as a traditionalist and staunch defender of religious freedom. In 2010, Benedict criticised equality laws in the UK for creating 'limitations on the freedom of religious communities to act in accordance with their beliefs'.<sup>94</sup> Two years later, he addressed American bishops on the 'grave threats' of 'radical' and 'reductive secularism' which threatens to 'delegitimise the Church's participation in public debate' in the United States.<sup>95</sup> To address this, the former pope saw the 'need for an engaged, articulate and well-formed Catholic laity endowed with a strong critical sense vis-à-vis the dominant culture'.<sup>96</sup> He also recognised 'certain attempts' to 'limit' freedom of religion, seen for instance in 'concerted efforts ... to deny the right of conscientious objection on the part of Catholic individuals and institutions with regard to cooperation in intrinsically evil practices'.<sup>97</sup>

Proponents of gender equality did not give up in the 16th Congress (2013–2016) during which time multiple anti-discrimination bills were filed. This period coincided with worldwide advancements in LGBTQ rights. Statements by Pope Francis, elected in 2013, were appropriated by various sectors to suggest that the Catholic Church was shifting its attitude towards LGBTQs.<sup>98</sup> In 2015,

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> Manila Bulletin, 'Anti-Discrimination Bill's OK Delayed', *Yahoo! Philippines*, 27 August 2012, <[www.ph.news.yahoo.com/anti-discrimination-bill-ok-delayed-105316925.html](http://www.ph.news.yahoo.com/anti-discrimination-bill-ok-delayed-105316925.html)>, 6 November 2018.

<sup>94</sup> Riazat Butt, 'Pope Condemns Gay Equality Laws Ahead of First UK Visit', *The Guardian*, 1 February 2010, <[www.theguardian.com/world/2010/feb/01/pope-condemns-british-equality-bill](http://www.theguardian.com/world/2010/feb/01/pope-condemns-british-equality-bill)>, 13 December 2018.

<sup>95</sup> Benedict XVI, 'Address of His Holiness Benedict XVI to the Bishops of the United States of America on Their 'Ad Limina' Visit', 19 January 2012, <[w2.vatican.va/content/benedict-xvi/en/speeches/2012/january/documents/hf\\_ben-xvi\\_spe\\_20120119\\_bishops-usa.html](http://w2.vatican.va/content/benedict-xvi/en/speeches/2012/january/documents/hf_ben-xvi_spe_20120119_bishops-usa.html)>, 13 December 2018.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

<sup>98</sup> BBC News, 'Pope Francis: Who Am I to Judge Gay People?', *BBC News*, 29 July 2013, <[www.bbc.com/news/world-europe-23489702](http://www.bbc.com/news/world-europe-23489702)>, 23 September 2018.

Ireland and the United States legalised same-sex marriage.<sup>99</sup> Responding to these developments, the CBCP released two pastoral letters addressing the pending Anti-Discrimination Bill and same-sex marriage.

On 3 March 2015, the CBCP issued the 'Pastoral Moral Guidance on the Anti-Discrimination Bill', penned by its president, Archbishop Socrates Villegas. The Catholic hierarchy began the statement saying that any bill which 'counters discrimination' is a 'gesture of charity'.<sup>100</sup> Taking their cue from Pope Francis' vision of a church of 'mercy and compassion' and recognising LGBTQs' 'treatment as outcasts' and 'relegation to the category of inferior members of the Church', the CBCP asked priests to look after the welfare of their communities.<sup>101</sup> They also said that there should be 'zero-tolerance' for bullying against LGBTQs in Catholic institutions.

At this point, the bishops also invoked religious freedom in reserving the right to determine criteria for their priests and to 'exclude even on the basis of sexual orientation and gender identity' if these become 'hindrances' to their fidelity.<sup>102</sup> Moreover, the bishops reserved the right for Catholic schools to exercise their academic freedom in determining admission and retention policies, while reiterating that no one should be 'demeaned, embarrassed, or humiliated' based on sexual orientation and gender identity.<sup>103</sup>

In these statements, religious freedom was framed by the Church hierarchy in defence of the interests of the dominant religion. The legal developments around the world favouring same-sex marriage posed a challenge on religious groups that did not sanction it. The clergy in the Philippines were aware of the legal implications of gender equality and same-sex marriage on their actions. In a way, to invoke religious freedom to uphold the Catholic Church's religious practices was a reasonable move that veered away from the moral panic over a culture of death that characterised its reactions in previous years.

Around this time, the CBCP's discourse about religious freedom was accompanied by its defence of Filipino values. There is a striking parallelism here. Both religious freedom and the defence of Filipino values were about resisting that

99 Henry McDonald, 'Ireland Becomes First Country to Legalise Gay Marriage by Popular Vote', *The Guardian*, 23 May 2015, <[www.theguardian.com/world/2015/may/23/gay-marriage-ireland-yes-vote](http://www.theguardian.com/world/2015/may/23/gay-marriage-ireland-yes-vote)>, 12 November 2018; Adam Liptak, 'Supreme Court Ruling Makes Same-Sex Marriage a Right Nationwide', *The New York Times*, 26 June 2015, <[www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html](http://www.nytimes.com/2015/06/27/us/supreme-court-same-sex-marriage.html)>, 12 November 2018.

100 Socrates Villegas, 'Pastoral Moral Guidance on the ANTI-DISCRIMINATION BILL', *CBCP News*, 3 March 2015, <[www.cbcpnews.com/cbcpnews/?p=52152](http://www.cbcpnews.com/cbcpnews/?p=52152)>, 7 November 2018.

101 *Ibid.*

102 *Ibid.*

103 *Ibid.*

which was threatening the moral fibre of Philippine society: Western values. In criticising the Anti-Discrimination Bill, the CBCP questioned whether the bill was a ‘pernicious form of “colonisation” and ‘importation ... of values, behavioural norms and attitudes that the West has championed and peddled’.<sup>104</sup> This was referring to Pope Francis’ warning of an ‘ideological colonisation’ of the family during his visit to the Philippines in January 2015, seen then as a veiled reference to proposals legalising same-sex marriage and contraception use.<sup>105</sup> Several Catholic bishops echoed this sentiment after Ireland voted to legalise same-sex marriage on 22 May 2015. In the same year, the US Supreme Court also voted to legalise same-sex marriage nationwide. In a statement, Malolos bishop Jose Oliveros asked Filipinos not to jump on the bandwagon of same-sex marriage as the country has its own ‘values, tradition, and Constitution’ to follow.<sup>106</sup>

#### 4.3 *New Developments*

On 18 May 2015, openly gay lawyer Jesus Nicardo Falcis III filed a landmark case with the Philippine Supreme Court to legalise same-sex marriage. His move was to declare the provisions of the Family Code defining marriage between a man and a woman as unconstitutional.<sup>107</sup> While shifting the battle for same-sex marriage from the legislature to the judiciary, Falcis used a religious freedom argument, among others, in favour of LGBTQ rights. He argued that ‘individuals belonging to religious denominations that believe in same-sex marriage exist and are denied of the right to found a family in accordance to their religious beliefs’,<sup>108</sup> citing the LGBTQs Christian Church and the Metropolitan Community Church as among the denominations that believe in and perform same-sex marriages in the country. The lawyer also pointed out that ‘such religious weddings have been denied recognition under civil law

<sup>104</sup> *Ibid.*

<sup>105</sup> Joshua J. McElwee, ‘Francis warns against ‘Ideological Colonization’ of Family, reaffirms Contraception Ban’, *National Catholic Reporter*, 16 January 2015, <[www.ncronline.org/news/vatican/francis-warns-against-ideological-colonization-family-reaffirms-contraception-ban](http://www.ncronline.org/news/vatican/francis-warns-against-ideological-colonization-family-reaffirms-contraception-ban)>, 7 November 2018.

<sup>106</sup> CBCPNews, ‘PH shouldn’t jump on ‘Gay Marriage Bandwagon’—Bishops’, 27 May 2015, *CBCP News*, <[www.cbcnews.com/cbcnews/?p=56998](http://www.cbcnews.com/cbcnews/?p=56998)>, 5 November 2018.

<sup>107</sup> Lian Buan, ‘Your Guide to the Supreme Court Oral Arguments on Same-Sex Marriage’, *Rappler*, 17 June 2018, <[www.rappler.com/nation/205106-supreme-court-same-sex-marriage-oral-arguments-guide](http://www.rappler.com/nation/205106-supreme-court-same-sex-marriage-oral-arguments-guide)>, 16 November 2018.

<sup>108</sup> *Falcis III v. Civil Registrar-General*, 19 May 2015, Supreme Court of the Philippines (pending), G.R. No. 217910, p. 27, <[www.freethinking.me/wp-content/uploads/GR\\_No\\_217910\\_Jesus\\_Nicardo\\_M\\_Falcis\\_III\\_vs\\_Civil\\_Registrar\\_General.pdf](http://www.freethinking.me/wp-content/uploads/GR_No_217910_Jesus_Nicardo_M_Falcis_III_vs_Civil_Registrar_General.pdf)>.

unlike the religious convictions of Catholics and Muslims'.<sup>109</sup> The Supreme Court heard oral arguments on the petition three years later, amid a new political climate. It was at this point that the religious freedom as an argument took a turn in favour of sexual minorities.

A year later, in 2016, the first transgender was elected to the House of Representatives, Bataan representative Geraldine Roman. Roman filed her own anti-discrimination measure in the 17th Congress (2016–2019). Her bill and other similar ones filed by her colleagues were consolidated into the SOGIE Equality Bill. Senator Risa Hontiveros-Baraquel filed the counterpart measure in the Senate. Roman made it clear that the bill is not Bible-based but rather based on the Constitution:

What we're talking about is a group of people whose civil rights are being violated, and we as public servants are sworn to defend these civil rights. Not all are Christian, not all are believers. I refuse to enter into a doctrinal discussion. We have to talk about civil laws and rights and that's what we're going to do.<sup>110</sup>

Nevertheless, Roman also maintained that the freedom of religion is guaranteed under the Constitution and in the bill's declaration of policy. The bill passed the House unanimously on third reading on 20 September 2017. This, however, was not the fate of the Civil Partnership Act, which was filed in Congress in the same year. It was supposed to recognise same-sex civil unions. Although it was declared a priority measure, the bill did not progress because of unexpected changes in the leadership of Congress.<sup>111</sup> Gloria Macapagal-Arroyo, known to be an ally of the Catholic Church, took over.<sup>112</sup>

<sup>109</sup> *Ibid.*, p. 28.

<sup>110</sup> Audrey N. Carpio, 'Geraldine Roman Is Pushing More than Gender Boundaries', *Esquire Philippines*, 15 February 2017, <[www.esquiremag.ph/politics/geraldine-roman-a1521-20170215-lfrm3](http://www.esquiremag.ph/politics/geraldine-roman-a1521-20170215-lfrm3)>, 12 November 2018.

<sup>111</sup> Ben Rosario, 'Bills on Civil Marriage of Same Sex, Add'l Grounds for Annulment Now Priority of House—Alvarez', *Manila Bulletin*, 3 January 2018, <[news.mb.com.ph/2018/01/03/bills-on-civil-marriage-of-same-sex-addl-grounds-for-annulment-now-priority-of-house-alvarez/](http://news.mb.com.ph/2018/01/03/bills-on-civil-marriage-of-same-sex-addl-grounds-for-annulment-now-priority-of-house-alvarez/)>, 9 November 2018.

<sup>112</sup> Gemma Garcia, 'No-El, Death Penalty, Divorce at Same Sex Marriage Malabo Na Sa Kamara', *PangMasa*, 31 July 2018, <[www.philstar.com/pang-masa/police-metro/2018/07/31/1838333/no-el-death-penalty-divorce-same-sex-marriage-malabo-na-sa-kamara](http://www.philstar.com/pang-masa/police-metro/2018/07/31/1838333/no-el-death-penalty-divorce-same-sex-marriage-malabo-na-sa-kamara)>, 12 November 2018.

Such legal strategies reflect how minorities might react to majoritarian nationalist tendencies by invoking the liberal democratic ideals of citizenship.<sup>113</sup> In a lecture about religious conflict in India, Gupta observes that 'when a religious minority agitates in democratic societies, it is with the ostensible aim of seeking parity on cultural terms with the majority population'.<sup>114</sup>

Different religious sectors also lent their voice for gender equality. Many of these statements invoked the welfare of sexual minorities. In early 2017, the Philippine Independent Church, known to be progressive on sexuality, issued a statement to support the SOGIE Bill: 'We believe that the Church must openly embrace God's people of all sexes, sexual orientations, gender identities and expressions (SSOGIE) as we embark on a journey toward a just and peaceful world'.<sup>115</sup> Also, students from prominent Catholic universities invoked the 'Christian values of love and acceptance'.<sup>116</sup> They released a statement urging the Senate to pass the SOGIE Equality Bill as soon as possible. Celebrities joined the chorus too. Miss Universe 2015 Pia Wurtzbach, a Filipina, posted on Instagram that 'there is a misconception that the bill goes against our religious beliefs, our religious freedom'.<sup>117</sup> In a Facebook post, Senator Hontiveros-Baraquel argued that the SOGIE Equality Bill and religious freedom are not at odds with each other since respect and love for neighbour are the teachings of God and good religion. Her post even included an image of Pope Francis with his now-famous quote: 'If someone is gay and searches for the Lord and has goodwill, who am I to judge?'.<sup>118</sup>

These initiatives point to the role of religious freedom in opening up discursive space for dissent and alternative viewpoints.<sup>119</sup> Using it in this manner is a countercultural move to contest not just existing laws but also prevailing

113 Dipankar Gupta, 'Citizens versus People: The Politics of Majoritarianism and Marginalization in Democratic India', 68:1 *Sociology of Religion* (2007), pp. 27–44.

114 *Ibid.*, p. 30.

115 OutrageMag.com, 'Church must embrace People of all SOGIE, says IFI in historic LGBT Statement', *Outrage*, 28 March 2017, <[www.outragemag.com/church-must-embrace-people-of-all-sogie-says-ifi-in-historic-lgbt-statement/](http://www.outragemag.com/church-must-embrace-people-of-all-sogie-says-ifi-in-historic-lgbt-statement/)>, 29 January 2019.

116 Margaret Claire Layug, 'Catholic Student Councils to Senators: End Debate, Pass SOGIE', *GMA News Online*, 8 August 2018, <[www.gmanetwork.com/news/news/nation/663468/catholic-student-councils-to-senators-end-debate-pass-sogie/story/](http://www.gmanetwork.com/news/news/nation/663468/catholic-student-councils-to-senators-end-debate-pass-sogie/story/)>, 9 November 2018.

117 Kate Matriano, 'Pia Wurtzbach: SOGIE Bill Doesn't Go against One's Religious Beliefs, Freedom', *Inquirer.Net*, 14 August 2018, <[www.entertainment.inquirer.net/288409/pia-wurtzbach-sogie-bill-doesnt-go-against-ones-religious-beliefs-religious-freedom](http://www.entertainment.inquirer.net/288409/pia-wurtzbach-sogie-bill-doesnt-go-against-ones-religious-beliefs-religious-freedom)>, 9 November 2018.

118 Risa Hontiveros, *Facebook*, 11 March 2018, <[www.facebook.com/hontiverosrisa/photos/a.244112475656/10160450243045657/?type=3&theater](https://www.facebook.com/hontiverosrisa/photos/a.244112475656/10160450243045657/?type=3&theater)>, 12 November 2018.

119 Erik Borgman, 'The Enduring Importance of the Freedom of Religion', 2 *Concilium International Journal of Theology* (2016), pp. 97–106.

moralties. In effect what is emphasised is the ‘freedom from government-imposed religious belief or practice’.<sup>120</sup> The argument has thus been that the religious freedom of churches that support and solemnise gay marriage is violated by ‘privileging a religious conception of marriage favoured by some religious traditions but not universally shared by all mainline religions’.<sup>121</sup> Interestingly, during the debates on the Reproductive Health Bill, progressive Catholics and Protestants who supported it have also invoked the religious freedom of non-Christians.<sup>122</sup>

In spite of this religious support, the public sphere was dominated by the religious critics of gender equality and same-sex marriage. In the Senate, no less than the Evangelical convert Senator Manny Pacquiao challenged Hontiveros-Baraquel on the bill.<sup>123</sup> The dominant discourse once again invoked religious freedom. According to CBCP lawyer Imbong, the ‘grounds for penalties for discriminatory practices’ found in the bill ‘are “subjective” and fails to protect religious and academic freedom of institutions’.<sup>124</sup> Pro-Life Philippines Foundation, Inc., a group whose mission seeks to ‘build a nation that respects, defends and cares for human life ... by working closely with the Catholic Church’,<sup>125</sup> released a statement in 2017 citing the violation of religious freedom as among their reasons for opposing the bill. They cited a possible ‘scenario’ wherein Catholic parishes would get apprehended if they do not recognise ‘gay militant organisations’.<sup>126</sup> The statement also cited US-based

120 Debra L. DeLaet and Rachel Paine Caufield, ‘Gay Marriage as a Religious Right: Reframing the Legal Debate over Gay Marriage in the United States’, 40:3 *Polity* (2008), p. 318.

121 *Ibid.*, p. 300.

122 Brian Doce, ‘Revisiting the Philippine Reproductive Health Politics via the Lens of Public Theology: The Role of Progressive Catholic and Protestant Sectors’, 12:2 *Politics and Religion Journal* (2018), pp. 285–307.

123 Kathrina Charmaine Alvarez, ‘Pacquiao Argues vs. Anti-Discrimination Bill: Bible Does Not Allow Cross-Dressing’, *GMA News Online*, 13 February 2017, <[www.gmanetwork.com/news/news/nation/599412/pacquiao-argues-vs-anti-discrimination-bill-bible-does-not-allow-cross-dressing/story/](http://www.gmanetwork.com/news/news/nation/599412/pacquiao-argues-vs-anti-discrimination-bill-bible-does-not-allow-cross-dressing/story/)>, 28 November 2018.

124 Lexanne O. Garcia, ‘Protect Religious Freedom amid Push for Anti-Discrimination Bill—CBCP Lawyer’, *The Varsitarian*, 30 August 2017, <[www.varsitarian.net/witness/20170830/protect-religious-freedom-amid-push-for-anti-discrimination-bill-cbcp-lawyer](http://www.varsitarian.net/witness/20170830/protect-religious-freedom-amid-push-for-anti-discrimination-bill-cbcp-lawyer)>, 27 November 2018.

125 Pro-Life Philippines Foundation, Inc., ‘Vision/Mission’, [www.prolife.org.ph/?page\\_id=106](http://www.prolife.org.ph/?page_id=106), accessed 17 January 2019.

126 Pro-Life Philippines Foundation, Inc., Position paper of Pro-Life Philippines Foundations, Inc. on Anti-Discrimination Bills on SOGIE ‘An Act Prohibiting Discrimination On the Basis of Sexual Orientation and Gender Identity and Expression And Providing Penalties Therefore’, 25 September 2017, [www.facebook.com/ProLifePhilippines/posts/read-and-shareposition-paperofpro-life-philippines-foundation-incon-anti-discrim/1898193433541466/](https://www.facebook.com/ProLifePhilippines/posts/read-and-shareposition-paperofpro-life-philippines-foundation-incon-anti-discrim/1898193433541466/), accessed 17 January 2019.



groups Focus on the Family and the National Association for Research & Therapy of Homosexuality (which promotes gay conversion therapy), in refuting LGBTQ essentialist arguments. This statement was also posted in the CBCP Episcopal Commission on the Laity's website. Protestant counterparts echoed the same idea. For example, the Mindanao Evangelical Leaders Council released a statement against the SOGIE Equality Bill and the Civil Partnerships Act, arguing that these will 'discriminate' the 'majority of Filipinos' whose lifestyles will be 'disoriented' and rights violated.<sup>127</sup> In early 2018, the Coalition of Christians for Righteousness, Justice, and Truth held a protest outside the Senate against the SOGIE Equality and same-sex marriage bills. The coalition is composed of prominent Evangelical groups including *Jesus is Lord* Church, the Philippine Council of Evangelical Churches, Intercessors for the Philippines, Philippines for Jesus Movement, and Nameless Faceless Servant. Senator Joel Villanueva, son of *Jesus is Lord* founder Eddie Villanueva, joined the rally, saying that a 'genuine' anti-discrimination bill would entail not just the prohibition of LGBTQ discrimination, but the protection of religious freedom as well.<sup>128</sup> Interestingly, the senator used to be a co-author of the bill. But now he has invoked religious freedom because he did not want the bill to 'cause harm to our rights to exercise our own beliefs without compromising the rights of others'.<sup>129</sup> In a separate interview, Villanueva said that religious preaching against homosexual activity may be considered a discriminatory act under the measure.<sup>130</sup>

## 5 Weaponising Religious Freedom

The turn of events testifies to the weaponisation of religious freedom against sexual minorities. Here we use weaponisation in a very specific manner. In our view, weaponisation is the most appropriate way to characterize how principles meant to protect liberties especially of minorities have been used to advance the interests of an assumed majority—the dominant religion and

127 Jigger Jerusalem, 'Church Leaders Protest vs Pro-LGBT Bills Anew', *Sun Star Philippines*, 18 December 2017, <[www.sunstar.com.ph/article/410363](http://www.sunstar.com.ph/article/410363)>, 9 November 2018.

128 Camille Balagtas, 'Senator Supports Anti-Discrimination Bill to Protect LGBT Rights', *Sun Star Philippines*, 17 November 2016, <[www.sunstar.com.ph/article/110502](http://www.sunstar.com.ph/article/110502)>, 9 November 2018.

129 'Villanueva Pushes for Genuine Anti-Discrimination Bill', 7 March 2018, [www.senate.gov.ph/press\\_release/2018/0307\\_villanueva1.asp](http://www.senate.gov.ph/press_release/2018/0307_villanueva1.asp), accessed 29 January 2019.

130 ABS-CBN News, 'Headstart: Should Companies, Schools Allow Cross-Dressing? | Part 2', *YouTube*, 30 August 2018, <[www.youtube.com/watch?v=xmfPU88pCMs](http://www.youtube.com/watch?v=xmfPU88pCMs)>, 12 November 2018.

the Christian Filipino nation. Weaponisation in this light is thus majoritarian, which emphasises ‘exclusivity as a “people” over ‘inclusive citizenship’.<sup>131</sup> This means that although the Supreme Court has upheld religious freedom in terms of individual liberties, it has been deployed with political valence by various majoritarian groups. Crucial in this regard has been the role not just of influential Christian legislators but also their wider Christian alliances in civil society. It is for this reason that our study has given attention to the discourses deployed by Christian groups over time.<sup>132</sup>

We recognise that ‘weaponisation’ can connote different meanings. It might evoke, for example, inauthentic or deceptive use of religious freedom. Thus, the groups we describe here might find ‘weaponisation’ provocative and unhelpful in bridging understanding. One way forward is to simply describe the ‘debate’ in terms of the ‘politicisation’ of religious freedom, highlighting how both the dominant religious majority and sexual minorities have taken different interpretations on the matter. In our view, however, characterising the tension in this manner will fail to apprehend the power asymmetry at play. We also use the term weaponisation in light of its current usage in the Philippines. Journalist Maria Ressa uses weaponisation to describe the instrumentalisation of the internet and social media in carrying out a sophisticated disinformation campaign meant to influence the 2016 elections. Refer also to Ong and Cabañes’ study on the ‘architects of networked disinformation’ for a more detailed discussion on this well-oiled (and funded) operation.<sup>133</sup>

What then accounts for the weaponisation of religious freedom? There are two pertinent contexts to consider. The first is the fate of the Catholic Church

<sup>131</sup> Gupta, *supra* note 113, p. 31.

<sup>132</sup> A parallel development in the US concerns Christian-owned businesses that have appealed to religious freedom to discriminate against LGBTQ employees and customers. For Gasper, when ‘the practices of private religion and public entities like corporations intersect ... courts err toward a reading of statutory rights that safeguards the rights of vulnerable individuals protected under the law’. Ravitch observes that using religious freedom to discriminate against sexual minorities is a recent development in the United States. Gasper *supra* note 17, pp. 396–397; Frank S. Ravitch, ‘Competing Freedoms: Freedom of Religion and Freedom of Sexual and Reproductive Liberty in Pluralistic Societies’, 9:2 *Contemporary Readings in Law and Social Justice* (2017), pp. 191–197.

<sup>133</sup> Maria Ressa, ‘Propaganda War: Weaponizing the Internet’, *Rappler*, 3 October 2016, <[www.rappler.com/nation/148007-propaganda-war-weaponizing-internet](http://www.rappler.com/nation/148007-propaganda-war-weaponizing-internet)>, 23 January 2019; Jonathan Corpus Ong and Jason Vincent A. Cabañes, *Architects of Networked Disinformation: Behind the Scenes of Troll Accounts and Fake News Production in the Philippines*, 2018, [www.newtontechfordev.com/wp-content/uploads/2018/02/ARCHITECTS-OF-NETWORKED-DISINFORMATION-FULL-REPORT.pdf](http://www.newtontechfordev.com/wp-content/uploads/2018/02/ARCHITECTS-OF-NETWORKED-DISINFORMATION-FULL-REPORT.pdf), accessed 24 January 2019; Karen EC Lecy and David Merritt Johns, ‘When open data is a Trojan Horse: The weaponization of transparency in science and governance’, *Big Data & Society* (January–June 2016), pp. 1–6.

during the debates about the Reproductive Health (RH) Law in previous years. The second is the dominant character of Christianity in the Philippines, which may be diverse but as a whole, still remains conservative when it comes to sexual norms.

### 5.1 *Religious Freedom and Reproductive Health*

When the RH Law was being proposed in Congress years ago, Catholic leaders sought the help of sympathetic intellectuals to advance their cause. This coincided the many actions by the clergy that reeked of moral panic. In his comprehensive study of population policy since the 1970s, Leviste argues that the Church's penetration of the state apparatus and civil society through allied intellectuals has led to the 'promotion of a Catholic moral teaching-centred stance'<sup>134</sup> on population policy. It was also these allies who immediately filed cases (14 to be exact) before the Supreme Court in 2013 challenging the constitutionality of the RH Law.<sup>135</sup>

Through these allied intellectuals, the Catholic Church has in effect appealed to the religious freedom of the majority. One of their arguments was that the law violated freedom of religion and the right to free speech, since Filipinos, 'majority of whom are Catholics',<sup>136</sup> would be forced to pay taxes that would be spent for contraceptives, the use of which is against Church teaching.

The petitioners claimed that a conscientious objector's duty to refer a patient to another health professional who can provide reproductive health services is still a violation of religious freedom. This was a strategic move. Later on, when the RH Law's constitutionality was questioned before the Supreme Court, eight provisions were eventually declared unconstitutional, including the duty to refer. Furthermore, the Philippine Supreme Court extended this provision to all hospitals, enabling institutions or 'non-natural persons' to be conscientious objectors.<sup>137</sup>

We note, however, that this is not necessarily an example of weaponisation of religious freedom against minorities. No minorities were deliberately targeted by the resistance of the Catholic Church towards the Reproductive Health Law. But it foreshadowed the work of the Church and its allies in resisting same-sex marriage and gender equality. In a way, these groups were successful in invoking religious freedom in this manner. Although the RH Law was

<sup>134</sup> Leviste, *supra* note 63, p. 25.

<sup>135</sup> Marilen J. Dañguilan, *The RH Bill Story: Contentions and Compromises* (Quezon City: Ateneo de Manila University Press, 2018).

<sup>136</sup> *Ibid.*, p. 489.

<sup>137</sup> Human Rights Resource Centre, *supra* note 44, p. 381.

eventually passed, a few of its provisions were struck down as unconstitutional in the name of the religious freedom of medical practitioners.<sup>138</sup> That these provisions were struck down was in fact to uphold the individual liberties of medical practitioners, which is arguably in keeping with how the country's Supreme Court has historically understood religious freedom.<sup>139</sup>

## 5.2 *Militant Christianity*

That influential Christian leaders are behind the weaponisation of religious freedom is in itself telling. They, not the state, have been at the forefront of resisting initiatives for same-sex marriage and gender equality.<sup>140</sup> Thus, that religious freedom has been weaponised against sexual minorities, lies in the overriding character of Christianity in Philippine society.

Although the majority of Filipinos (81 per cent) profess Catholicism, 11 per cent belong to other Christian denominations.<sup>141</sup> In spite of the dominance of Catholicism, an argument can be made for the Church's decline in the public sphere amid religious diversification in Philippine society. This is exemplified in the heated debates over—and eventual passage of—the RH Law. Statements such as denying Holy Communion to supportive RH legislators were indicative of the Church's 'institutional panic' over their 'waning influence in civil society'.<sup>142</sup> President Rodrigo Duterte's victory and continued popularity despite his ceaseless attacks against the clergy highlight the Church's increasingly vulnerable position in the public sphere.<sup>143</sup>

This comes with the ascendancy of other Christian groups, whose visibility is remarkable in different ways. The rise of prominent Christian churches is marked not just by their buildings around the country. Evangelical megachurches like *Jesus is Lord* and the indigenous *Iglesia Ni Cristo* are playing

138 Buena Bernal, 'SC declares RH Law constitutional', *Rappler*, 8 April 2014, <[www.rappler.com/nation/54946-supreme-court-rh-law-constitutional](http://www.rappler.com/nation/54946-supreme-court-rh-law-constitutional)>, 16 November 2018; Dañguilan, *supra* note 135.

139 Cornelio, *supra* note 16.

140 This is a unique development in contrast to other states in Southeast Asia where states politicise religion to assert legitimacy. In these states, it is either a dominant religion is constitutionally privileged or religion itself is deemed as a threat to the state. Although a typical issue might be the freedom of conversion, politicising religion may also involve moral panic over gender equality. Neo, *supra* note 61.

141 World Population Review, *Philippines Population 2018*, [www.worldpopulationreview.com/countries/philippines-population](http://www.worldpopulationreview.com/countries/philippines-population), accessed 15 November 2018.

142 Raffin and Cornelio, *supra* note 66.

143 Jayeel S. Cornelio, 'Duterte and the Hypocritical Church', *Rappler*, 8 December 2018, <[www.rappler.com/thought-leaders/218396-duterte-hypocritical-church](http://www.rappler.com/thought-leaders/218396-duterte-hypocritical-church)>, 17 January 2019.

different roles in politics. For example, they either support candidates or field their own during elections.

A militant character<sup>144</sup> is discernible among all of them in terms of their evangelistic fervour and fundamentalist approach to the Scriptures. Their fundamentalism translates to their conservative outlook with regard to divorce, homosexuality, same-sex marriage, and abortion.<sup>145</sup> In this way, these other Christian denominations share an overlapping consensus with the Catholic Church. We have noted their statements above, which, in some cases, have been echoed by conservative legislators themselves. Manny Pacquiao, Joel Villanueva, and Benny Abante are some of these religious legislators. They have in their own ways invoked religious freedom in the name of the majority.

To do so is strategic in a society that remains conservative when it comes to the issues of the LGBTQ community. It is a useful (and even uncomplicated) communication model. It harps on the values of the conservative morality of the majority of Filipinos in relation to sexuality. At the onset of this paper, we showed how the public's negative attitudes toward same-sex marriage and gender equality complicate the facile claim that Philippine society is LGBTQ-friendly. The discursive move effortlessly relies upon the normative dispositions of the majority. The majority, it must be emphasised, is not imagined. Public opinion is not entirely sold to gender equality.

That this is the case is also why to appeal to the majority is to invoke essentialist values about what it means to be Filipino. The heteronormative family remains ideal, a virtue in itself that resonates with the Scriptural readings of different religious groups.<sup>146</sup> In our discussions above, religious leaders have warned against the influence of Western values as a result of global shifts favouring same-sex marriage. In this light, the weaponisation of religious freedom in itself manifests religious nationalism, or the belief that the Philippines is a Christian country that must uphold Christian values and principles.<sup>147</sup>

144 This militant outlook is seen in their active lobbying efforts on policies related to these issues. But their militancy is more evident in their expansionist ethos—exemplified by *Jesus Is Lord* and *Iglesia Ni Cristo's* aggressive international church-building and forays into civil society which parallel and even rival the State. This 'triumphalist' streak is indicative of aspirations to match the Catholic Church's still-pervasive and deeply-entrenched influence in Filipino life. Jayeel S. Cornelio, 'Religion and Civic Engagement: The Case of Iglesia Ni Cristo in the Philippines', 45:1 *Religion, State & Society* (2017), pp. 23–38; Jayeel S. Cornelio, 'Jesus Is Lord: The Indigenization of Megachurch Christianity in the Philippines', in T. Chong (ed.), *Pentecostal Megachurches in Southeast Asia: Negotiating Class, Consumption and the Nation*, (ISEAS—Yusuf Ishak Institute, 2018), pp. 127–155.

145 Cornelio, *supra* note 12.

146 *Ibid.*

147 Francisco, *supra* note 84.

By invoking such values, these Christian groups exhibit majoritarianism by claiming “to represent ‘the people,’” and in turn characterising minorities as ‘enemies of the nation-state’.<sup>148</sup> This disposition inevitably excludes not just people of other faiths but also those who subscribe to more progressive Christian worldviews. The casualty of weaponising religious freedom is thus clear. The free market of ideas, beliefs, and practices—the very assumption of religious freedom—is in the end restricted.<sup>149</sup>

The discourses that support these manifestations of religious nationalism also warrant a closer look. While these Christian groups have framed their actions as defending traditional Filipino values, their discursive use of religious freedom can be traced to transnational sources, such as Hess and Benedict XVI. Even the CBCP’s cry of ‘ideological colonisation’ is borrowed from Pope Francis. Sources refuting essentialist arguments for LGBTQs have been culled from US-based groups, as seen in the Pro-Life Philippines position paper. This is similar to what happened during the RH law debates. Estrada-Claudio points out how anti-RH groups drew on international conservative sources (mostly American) for help in defending their position.<sup>150</sup>

## 6 Conclusion

Whether the weaponisation of religious freedom is effective in arresting initiatives for same-sex marriage and gender equality needs to be assessed in the long run.<sup>151</sup> As we have spelled out in the introduction, how far these initiatives go is largely shaped by public opinion. In spite of strong institutional resistance

<sup>148</sup> Gupta, *supra* note 113, p. 30.

<sup>149</sup> Hurd, *supra* note 53.

<sup>150</sup> Sylvia Estrada-Claudio, ‘Voices and Choices in Reproductive Rights: Scholarship and Activism’, in C. Johnson, et al (eds.), *The Social Sciences in the Asian Century*, (Canberra, Australia: ANU Press, 2015), pp. 97–116.

<sup>151</sup> After two days of hearing oral arguments in June 2018, the Supreme Court has yet to decide on Jesus Falcis III’s same-sex marriage petition. On 7 August 2018, the case suffered another setback when the Supreme Court issued a show cause order asking Falcis to explain why he did not submit the required memorandum by the Court’s 26 July 2018 deadline. Meanwhile, the 17th Congress (2016–2019) failed to pass the SOGIE Equality Bill and the Civil Partnerships Act. The House of Representatives passed their version of the SOGIE Equality Bill in September 2017, but conservative Christian senators Vicente Sotto III, Manny Pacquiao, and Joel Villanueva successfully blocked the measure’s Senate counterpart. Both bills have since been refiled in the 18th Congress (2019–2022). But advocates may have a more difficult time this time as Benny Abante and Eddie Villanueva have been elected to the House and have secured key leadership positions.

from the Catholic Church, the Reproductive Health Bill was passed into law given the massive public support for it. At the very least, what is discernible is that the generational and cultural shifts that are taking place in Philippine society open enough space for gender issues to become policy concerns.

But it is not necessarily easy. Religious freedom, as this study has shown, can take on a different meaning when deployed by a dominant religious group. The work of the Catholic Church, other Christian groups, and allies testifies to what we have described above as the weaponisation of religious freedom against sexual minorities. The move is made possible by appealing to the heteronormative values of the majority, who are presumed to be conservative Christian. The implicit assumption is that the LGBTQ community embodies Western values that are inimical to the sanctity of the family and the Christian nation. Thus, the weaponisation of religious freedom manifests religious nationalism.

In effect, the interests of sexual minorities are silenced. This is even if some of these LGBTQ individuals may in fact represent progressive forms of Christianity. Thus, they are also religious minorities whose religious freedom to pursue same-sex union, for example, is rejected in favour of the majority. This raises a few fundamental questions about the future of religious freedom in Philippine society. At one level, how will this reasoning be weighed by the Supreme Court that has long interpreted religious freedom in the interest of individual liberties?<sup>152</sup> At another level, does the issue of gender equality and same-sex marriage have to be fundamentally framed in terms of religious freedom? Doing so overlooks the existence of the religiously unaffiliated in the LGBTQ community. This is why framing the whole issue as the lack of religious freedom is not always helpful. In this light, that influential Christian leaders have defined the move for same-sex marriage and gender inequality as an affront to the religious freedom of the majority has already limited the discursive space. That same-sex marriage and gender equality are civil rights is downplayed as a result.

Both the dominant religious bloc and sexual minorities' appeals to religious freedom are manifestations of a society confronting the onus of diversity. Amid shifting values, conservatives are fighting to protect their way of living by using a liberal principle. In struggling for their rights, minorities have discovered the potential of religious freedom in their toolkit. While the state has yet to decide if and how LGBTQ rights are an issue of religious freedom, it would have to listen closely not just to the arguments put forward by both sides but to the signs of the times as well. It would also have to examine its own biases, given the intimate and imbricated relationship between the country's law and

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<sup>152</sup> Cornelio, *supra* note 16.



the Catholic religion. How the Philippines moves forward on this issue serves as an indication of how it imagines its secular liberal democratic project to be in the face of a militant form of Christianity.

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