



FREEDOM OF RELIGION

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- Freedom of Religion is essentially the Right to Worship.
- Article 18 of the Universal Declaration of Human Rights – “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”
- Religion is any specific system of belief, worship, or conduct often involving a code of ethics and a philosophy.
- In the context of the constitutional provision, religions includes rejection of religion, or a refusal to believe in a supreme being.
- Section 5, Article III of the 1987 Constitution – “No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.”





- Section 6, Article II of the 1987 Constitution – “The separation of Church and State shall be inviolable.”
- The purpose is to delineate the boundaries between the two institutions and thus avoid encroachments by one against the other because of a misunderstanding of the limits of their respective exclusive jurisdictions. “Strong fences make good neighbors.”
- It goes both ways – the State is prohibited from interfering in purely ecclesiastical affairs, and the Church is likewise barred from meddling in purely secular matters. Their union tends to destroy government and degrade religion.
- Section 5, Article III of the 1987 Constitution has two (2) parts – the Non-Establishment Clause and the Free Exercise Clause.
- The Non-Establishment Clause means that the state cannot set up a church or pass laws which aid or favor a religion. The government must be neutral.
- There is no violation of the Non-Establishment Clause if the law has a secular purpose.





- Section 29(2), Article VI of the 1987 Constitution – “No public money or property shall be appropriated, applied, paid, or employed, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or of any priest, preacher, minister, or other religious teacher, or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium.”
- Gregorio Aglipay v. Juan Ruiz, G.R. No. L-45459, March 13, 1937 - Any benefit indirectly enjoyed by a religious institution, as long as such benefit was only incidental to a legitimate secular objective, does not violate the above prohibition.
- Diocese of Bacolod v. Commission on Elections – Order of COMELEC to take down the Team Buhay/Team Patay tarpaulin is violative of the Diocese’s Freedom of Religion.
- Internal disputes regarding religious dogma and other matters of faith are outside the jurisdiction of the secular authorities.





- The dogma or doctrines adopted by a religious group cannot be binding upon the State if it contravenes its valid laws.
- Courts cannot rule on morality from a religious perspective (e.g. premarital sex).
- Where a civil right depends upon some matter pertaining to ecclesiastical affairs, the civil tribunal (our courts) tries the civil right and nothing more (i.e. excluding the ecclesiastical affair).
- Free Exercise Clause has two (2) aspects – Freedom to Believe and Freedom to Act on one's beliefs. The first is absolute as long as the belief is confined within the realm of thought. The second is subject to regulation where the belief is translated into external acts that affect public welfare.
- For instance, one has full freedom to worship another person or an imaginary entity, but he may not offer the object of his piety a human sacrifice, lest he be charged with the crime of murder.





- *Ebralinag v. The Division Superintendent of Schools of Cebu*, G.R. No. 95770, March 1, 1993 – the freedom of religion of members of the Jehovah’s Witnesses who believed that they should not salute the Philippine flag because, in their view, it was an image to which the Bible prohibited them from rendering obeisance was upheld.
- *Alejandra Estrada v. Soledad S. Escritor*, A.M. No. P-02-1651, June 22, 2006 – the act of a woman who was a member of Jehovah’s Witnesses in living with a married man without the benefit of marriage for more than twenty years in accordance with their teachings was sustained by the Supreme Court as an exercise of freedom of religion (Declaration of Pledging Faithfulness).
- Benevolent Neutrality – the State can allow for accommodation of morality based on religion provided it does not offense compelling state interests,
- *Ang Ladlad LGBT Party v. Commission on Elections*, G.R. No. 190582, April 8, 2010 – COMELEC rejected the application of Ang Ladlad LGBT Party as a political party for purposes of the party-list elections on religious grounds, saying that their group “posed a danger to the youth” and “accepting them will bring down the standard of morals of our society.” The Supreme Court overturned COMELEC’s action on the ground of the Non-Establishment Clause.





- A conscientious objector is one who refuses to perform a legal duty by reason of religion freedom.
- *Imbong v. Ochoa*, G.R. No. 204819, April 8, 2014 - The Court is of the view that the “obligation to refer” imposed by the RH Law violates the religious belief and conviction of a conscientious objector. Once the medical practitioner, against his will, refers a patient seeking information on modern reproductive health products, services, procedures and methods, his conscience is immediately burdened as he has been compelled to perform an act against his beliefs. As Commissioner Joaquin A. Bernas has written, "at the basis of the free exercise clause is the respect for the inviolability of the human conscience.
- *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (US Case) - The US Supreme Court held that the Colorado Civil Rights Commission's conduct in evaluating a cake shop owner's reasons for declining to make a wedding cake for a same-sex couple violated the Free Exercise Clause.





- The US Supreme Court explained that while gay persons and same-sex couples are afforded civil rights protections under the laws and the Constitution, religious and philosophical objections to same-sex marriage are protected views and can also be protected forms of expression. The Colorado law at issue in this case, which prohibited discrimination against gay people in purchasing products and services, had to be applied in a neutral manner with regard to religion. The majority acknowledged that from Phillips' perspective, creating cakes was a form of artistic expression and a component of his sincere religious beliefs.





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THANK YOU AND STUDY WELL

