

G.R. No. 95770

March 1, 1993

ROEL EBRALINAG, EMILY EBRALINAG, represented by their parents MR. & MRS. LEONARDO EBRALINAG, JUSTINIANA TANTOG, represented by her father AMOS TANTOG; JEMILOYAO & JOEL OYAO, represented by their parents MR. & MRS. ELIEZER OYAO; JANETH DIAMOS & JEREMIAS DIAMOS, represented by parents MR. & MRS. GODOFREDO DIAMOS; SARA OSTIA & JONATHAN OSTIA, represented by their parents MR. & MRS. FAUTO OSTIA; IRVIN SEQUINO & RENAN SEQUINO, represented by their parents MR. & MRS. LYDIO SEQUINO; NAPTHALE TANACAO, represented by his parents MR. & MRS. MANUEL TANACAO; PRECILA PINO, represented by her parents MR. & MRS. FELIPE PINO; MARICRIS ALFAR, RUWINA ALFAR, represented by their parents MR. & MRS. HERMINIGILDO ALFAR; FREDESMINDA ALFAR & GUMERSINDO ALFAR, represented by their parents ABDON ALFAR; ALBERTO ALFAR & ARISTIO ALFAR, represented by their parents MR. & MRS. GENEROSO ALFAR; MARTINO VILLAR, represented by his parents MR. & MRS. GENARO VILLAR; PERGEBRIEL GUINITA & CHAREN GUINITA, represented by their parents MR. & MRS. CESAR GUINITA; ALVIN DOOP, represented by his parents MR. & MRS. LEONIDES DOOP; RHILYN LAUDE, represented by her parents MR. & MRS. RENE LAUDE; LEOREMINDA MONARES, represented by her parents, MR. & MRS. FLORENCIO MONARES; MERCY MONTECILLO, represented by her parents MR. & MRS. MANUEL MONTECILLO; ROBERTO TANGAHA, represented by his parent ILUMINADA TANGAHA; EVELYN, MARIA & FLORA TANGAHA, represented by their parents MR. & MRS. ALBERTO TANGAHA; MAXIMO EBRALINAG, represented by his parents, MR. & MRS. PAQUITO EBRALINAG; JUTA CUMON, GIDEON CUMON & JONATHAN CUMON, represented by their father RAFAEL CUMON; EVIE LUMAKANG & JUNAR LUMAKANG, represented by their parents MR. & MRS. LUMAKANG; EMILIO SARSOZO, PAZ AMOR SARSOZO & IGNA MARIE SARSOZO, represented by their parents MR. & MRS. VIRGILIO SARSOZO; MICHAEL JOSEPH & HENRY JOSEPH, represented by parent ANNIE JOSEPH; EMERSON TABLASON & MASTERLOU TABLASON, represented by their parent EMERLITO TABLASON, petitioners,

vs.

THE DIVISION SUPERINTENDENT OF SCHOOLS OF CEBU, respondent.

G.R. No. 95887

March 1, 1993

MAY AMOLO, represented by her parents MR. & MRS. ISAIAS AMOLO; REDFORD ALSADO, JOEBERT ALSADO & RUDYARD ALSADO, represented by their parents MR. & MRS. ABELARDO ALSADO; NELIA ALSADO, REU ALSADO & LILIBETH ALSADO, represented by their parents MR. & MRS. ROLANDO ALSADO; SUZETTE NAPOLES, represented by her parents ISMAILITO NAPOLES & OPHELIA NAPOLES; JESICA CARMELOTES, represented by her parents MR. & MRS. SERGIO CARMELOTES; BABY JEAN MACAPAS, represented by her parents MR. & MRS. TORIBIO MACAPAS; GERALDINE ALSADO, represented by her parents MR. & MRS. JOEL ALSADO; RAQUEL DEMOTOR & LEAH DEMOTOR, represented by their parents MR. & MRS. LEONARDO DEMOTOR; JURELL VILLA & MELONEY VILLA, represented by their parents MR. & MRS. JOVENIANO VILLA; JONELL HOPE MAHINAY, MARY GRACE MAHINAY and MAGDALENE MAHINAY, represented by their parents MR. & MRS. FELIX MAHINAY; JONALYN ANTIOLA and JERWIN ANTIOLA, represented by their parents FELIFE ANTIOLA and ANECITA ANTIOLA; MARIA CONCEPCION CABUYAO, represented by her parents WENIFREDO CABUYAO and ESTRELLITA CABUYAO, NOEMI TURNO represented by her parents MANUEL TURNO and VEVENCIA TURNO; SOLOMON PALATULON, SALMERO

PALATULON and ROSALINDA PALATULON, represented by their parents MARTILLANO PALATULON and CARMILA PALATULON, petitioners,
vs.

THE DIVISION SUPERINTENDENT OF SCHOOLS OF CEBU and ANTONIO A. SANGUTAN,
respondents.

Felino M. Ganal for petitioners.

The Solicitor General for respondents.

GRIÑO-AQUINO, J.:

These two special civil actions for *certiorari*, *Mandamus* and Prohibition were consolidated because they raise essentially the same issue: whether school children who are members or a religious sect known as Jehovah's Witnesses may be expelled from school (both public and private), for refusing, on account of their religious beliefs, to take part in the flag ceremony which includes playing (by a band) or singing the Philippine national anthem, saluting the Philippine flag and reciting the patriotic pledge.

In G.R. No. 95770 "Roel Ebralinag, et al. vs. Division Superintendent of Schools of Cebu and Manuel F. Biongco, Cebu District Supervisor," the petitioners are 43 high school and elementary school students in the towns of Daan Bantayan, Pinamungajan, Carcar, and Taburan Cebu province. All minors, they are assisted by their parents who belong to the religious group known as Jehovah's Witnesses which claims some 100,000 "baptized publishers" in the Philippines.

In G.R. No. 95887, "May Amolo, et al. vs. Division Superintendent of Schools of Cebu and Antonio A. Sangutan," the petitioners are 25 high school and grade school students enrolled in public schools in Asturias, Cebu, whose parents are Jehovah's Witnesses. Both petitions were prepared by the same counsel, Attorney Felino M. Ganal.

All the petitioners in these two cases were expelled from their classes by the public school authorities in Cebu for refusing to salute the flag, sing the national anthem and recite the patriotic pledge as required by Republic Act No. 1265 of July 11, 1955, and by Department Order No. 8 dated July 21, 1955 of the Department of Education, Culture and Sports (DECS) making the flag ceremony compulsory in all educational institutions. Republic Act No. 1265 provides:

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

Sec. 2. The Secretary of Education is hereby authorized and directed to issue or cause to be issued rules and regulations for the proper conduct of the flag ceremony herein provided.

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

In case of failure to observe for the second time the flag-ceremony provided by this Act, the Secretary of Education, after proper notice and hearing, *shall cause the cancellation of the recognition or permit of the private educational institution responsible for such failure.*

The implementing rules and regulations in Department Order No. 8 provide:

RULES AND REGULATIONS FOR CONDUCTING THE FLAG CEREMONY IN ALL EDUCATIONAL INSTITUTIONS.

1. The Filipino Flag shall be displayed by all educational institutions, public and private, every school day throughout the year. It shall be raised at sunrise and lowered at sunset. The flag-staff must be straight, slightly and gently tapering at the end, and of such height as would give the Flag a commanding position in front of the building or within the compound.

2. *Every public and private educational institution shall hold a flag-raising ceremony every morning except when it is raining*, in which event the ceremony may be conducted indoors in the best way possible. A retreat shall be held in the afternoon of the same day. The flag-raising ceremony in the morning shall be conducted in the following manner:

a. *Pupils and teachers* or students and faculty members *who are in school and its premises shall assemble in formation facing the flag*. At command, books shall be put away or held in the left hand and *everybody shall come to attention*. Those with hats shall uncover. No one shall enter or leave the school grounds during the ceremony.

b. *The assembly shall sing the Philippine National Anthem* accompanied by the school band or without the accompaniment if it has none; or the anthem may be played by the school band alone. At the first note of the Anthem, the flag shall be raised briskly. While the flag is being raised, *all persons present shall stand at attention and execute a salute*. Boys and men with hats shall salute by placing the hat over the heart. Those without hat may stand with their arms and hands down and straight at the sides. Those in military or Boy Scout uniform shall give the salute prescribed by their regulations. The salute shall be started as the Flag rises, and completed upon last note of the anthem.

c. Immediately following the singing of the Anthem, *the assembly shall recite in unison the following patriotic pledge* (English or vernacular version), which may bring the ceremony to a close. This is required of all public schools and of private schools which are intended for Filipino students or whose population is predominantly Filipino.

English Version

I love the Philippines.

It is the land of my birth;

It is the home of my people.

It protects me and helps me to be, strong, happy and useful.

In return, I will heed the counsel of my parents;

I will obey the rules of my school;

I will perform the duties of a patriotic, law-abiding citizen;

I will serve my country unselfishly and faithfully;

I will be a true, Filipino in thought, in word, in deed.

X X X X X X X X X

Jehovah's Witnesses admittedly teach their children not to salute the flag, sing the national anthem, and recite the patriotic pledge for they believe that those are "acts of worship" or "religious devotion" (p. 10, *Rollo*) which they "cannot conscientiously give . . . to anyone or anything except God" (p. 8, *Rollo*). They feel bound by the Bible's command to "guard ourselves from

idols — 1 John 5:21" (p. 9, *Rollo*). They consider the flag as an image or idol representing the State (p. 10, *Rollo*). They think the action of the local authorities in compelling the flag salute

and pledge transcends constitutional limitations on the State's power and invades the sphere of the intellect and spirit which the Constitution protect against official control (p. 10, *Rollo*). This is not the first time that the question, of whether the children of Jehovah's Witnesses may be expelled from school for disobedience of R.A. No. 1265 and Department Order No. 8, series of 1955, has been raised before this Court.

The same issue was raised in 1959 in *Gerona, et al. vs. Secretary of Education, et al.*, 106 Phil. 2 (1959) and *Balbuna, et al. vs. Secretary of Education*, 110 Phil. 150 (1960). This Court in the *Gerona* case upheld the expulsion of the students, thus:

The flag is not an image but a symbol of the Republic of the Philippines, an emblem of national sovereignty, of national unity and cohesion and of freedom and liberty which it and the Constitution guarantee and protect. Under a system of complete separation of church and state in the government, the flag is utterly devoid of any religious significance. Saluting the flag does not involve any religious ceremony. The flag salute is no more a religious ceremony than the taking of an oath of office by a public official or by a candidate for admission to the bar.

In requiring school pupils to participate in the flag salute, the State thru the Secretary of Education is not imposing a religion or religious belief or a religious test on said students. It is merely enforcing a

non-discriminatory school regulation applicable to all alike whether Christian, Moslem, Protestant or Jehovah's Witness. The State is merely carrying out the duty imposed upon it by the Constitution which charges it with supervision over and regulation of all educational institutions, to establish and maintain a complete and adequate system of public education, and see to it that all schools aim to develop, among other things, civic conscience and teach the duties of citizenship.

The children of Jehovah's Witnesses cannot be exempted from participation in the flag ceremony. They have no valid right to such exemption. Moreover, exemption to the requirement will disrupt school discipline and demoralize the rest of the school population which by far constitutes the great majority.

The freedom of religious belief guaranteed by the Constitution does not and cannot mean exemption from or non-compliance with reasonable and non-discriminatory laws, rules and regulations promulgated by competent authority. (pp. 2-3).

Gerona was reiterated in *Balbuna*, as follows:

The Secretary of Education was duly authorized by the Legislature thru Republic Act 1265 to promulgate said Department Order, and its provisions requiring the observance of the flag salute, not being a religious ceremony but an act and profession of love and allegiance and pledge of loyalty to the fatherland which the flag stands for, does not violate the constitutional provision on freedom of religion. (*Balbuna, et al. vs. Secretary of Education, et al.*, 110 Phil. 150).

Republic Act No. 1265 and the ruling in *Gerona* have been incorporated in Section 28, Title VI, Chapter 9 of the Administrative Code of 1987 (Executive Order No. 292) which took effect on September 21, 1988 (one year after its publication in the Official Gazette, Vol. 63, No. 38 of September 21, 1987). Paragraph 5 of Section 28 gives legislative cachet to the ruling in *Gerona*, thus:

5. Any teacher or student or pupil who refuses to join or participate in the flag ceremony may be dismissed after due investigation.

However, the petitioners herein have not raised in issue the constitutionality of the above provision of the new Administrative Code of 1987. They have targeted only Republic Act No. 1265 and the implementing orders of the DECS.

In 1989, the DECS Regional Office in Cebu received complaints about teachers and pupils belonging to the Jehovah's Witnesses, and enrolled in various public and private schools, who refused to sing the Philippine national anthem, salute the Philippine flag and recite the patriotic pledge. Division Superintendent of Schools, Susana B. Cabahug of the Cebu Division of DECS, and Dr. Atty. Marcelo M. Bacalso, Assistant Division Superintendent, recalling this Court's decision in *Gerona*, issued Division Memorandum No. 108, dated November 17, 1989 (pp. 147-148, *Rollo* of G.R. No. 95770) directing District Supervisors, High School Principals and Heads of Private Educational institutions as follows:

1. Reports reaching this Office disclose that there are a number of teachers, pupils, students, and school employees in public schools who refuse to salute the Philippine flag or participate in the daily flag ceremony because of some religious belief.

2. Such refusal not only undermines Republic Act No. 1265 and the DECS Department Order No. 8, Series of 1955 (Implementing Rules and Regulations) but also strikes at the heart of the DECS sustained effort to inculcate patriotism and nationalism.

3. Let it be stressed that any belief that considers the flag as an image is not in any manner whatever a justification for not saluting the Philippine flag or not participating in flag ceremony. Thus, the Supreme Court of the Philippine says:

The flag is not an image but a symbol of the Republic of the Philippines, an emblem of national sovereignty, of national unity and cohesion and freedom and liberty which it and the Constitution guarantee and protect. (*Gerona, et al. vs. Sec. of Education, et al.*, 106 Phil. 11.)

4. As regards the claim for freedom of belief, which an objectionist may advance, the Supreme Court asserts:

But between the freedom of belief and the exercise of said belief, there is quite a stretch of road to travel. If the exercise of said religious belief clashes with the established institutions of society and with the law, then the former must yield and give way to the latter. (*Gerona, et al. vs. Sec. of Education, et al.*, 106 Phil. 11.)

5. *Accordingly, teachers and school employees who choose not to participate in the daily flag ceremony or to obey the flag salute regulation spelled out in Department Order No. 8, Series of 1955, shall be considered removed from the service after due process.*

6. In strong language about pupils and students who do the same the Supreme Court has this to say:

If they choose not to obey the flag salute regulation, they merely lost the benefits of public education being maintained at the expense of their fellow Citizens, nothing more. According to a popular expression, they could take it or leave it! Having elected not to comply with the regulation about the flag salute they forfeited their right to attend public schools. (*Gerona, et al. vs. Sec. of Education, et al.*, 106 Phil. 15.)

7. School administrators shall therefore submit to this Office a report on those who choose not to participate in flag ceremony or salute the Philippine flag. (pp. 147-148, *Rollo* of G.R. No. 95770; Emphasis supplied).

Cebu school officials resorted to a number of ways to persuade the children of Jehovah's Witnesses to obey the memorandum. In the Buenavista Elementary School, the children were asked to sign an Agreement (Kasabutan) in the Cebuano dialect promising to sing the

national anthem, place their right hand on their breast until the end of the song and recite the pledge of allegiance to the flag (Annex D, p. 46, *Rollo* of G.R. No. 95770 and p. 48, *Rollo* of G.R. No. 95887), but they refused to sign the "Kasabutan" (p. 20, *Rollo* of G.R. No. 95770).

In Tubigmanok Elementary School, the Teacher-In-Charge, Antonio A. Sangutan, met with the Jehovah's Witnesses' parents, as disclosed in his letter of October 17, 1990, excerpts from which reveal the following:

After two (2) fruitless confrontation meetings with the Jehovah's Witnesses' parents on October 2, 1990 and yesterday due to their firm stand not to salute the flag of the Republic of the Philippines during Flag Ceremony and other occasions, as mandated by law specifically Republic Act No. 1265, this Office hereby orders the dropping from the list in the School Register (BPS Form I) of all teachers, all Jehovah Witness pupils from Grade I up to Grade VI effective today.

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This order is in compliance with Division Memorandum No. 108 s. 1989 dated November 17, 1989 by virtue of Department Order No. 8 s. 1955 dated July 21, 1955 in accordance with Republic Act No. 1265 and Supreme Court Decision of a case "Genaro Gerona, et al., Petitioners and Appellants vs. The Honorable Secretary of Education, et al., Respondents and Appellees" dated August 12, 1959 against their favor. (p. 149, *Rollo* of G.R. No. 95770.)

In the Daan Bantayan District, the District Supervisor, Manuel F. Biongco, ordered the "dropping from the rolls" of students who "opted to follow their religious belief which is against the Flag Salute Law" on the theory that "they forfeited their right to attend public schools." (p. 47, *Rollo* of G.R. No. 95770.)

1st Indorsement

DAANBANTAYAN DISTRICT II

Daanbantayan, Cebu, July 24, 1990.

Respectfully returned to Mrs. Alicia A. Diaz, School In Charge [sic], Agujo Elementary School with the information that *this office is sad to order the dropping* of Jeremias Damos and Jeaneth Damos, Grades III and IV pupils respectively *from the roll since they opted to follow their religious belief which is against the Flag Salute Law* (R.A. 1265) and DECS Order No. 8, series of 1955, having elected not to comply with the regulation about the flag salute they forfeited their right to attend public schools (Gerona, et al. vs. Sec. of Education, et al., 106 Philippines 15). However, should they change their mind to respect and follow the Flag Salute Law they may be re-accepted.

(Sgd.) MANUEL F. BIONGCOG

District Supervisor

(p. 47, *Rollo* of G.R. No. 95770.)

The expulsion as of October 23, 1990 of the 43 petitioning students of the Daanbantayan National High School, Agujo Elementary School, Calape Barangay National High School, Pinamungajan Provincial High School, Tabuelan Central School, Canasojan Elementary School, Liboron Elementary School, Tagaytay Primary School, San Juan Primary School and Northern Central Elementary School of San Fernando, Cebu, upon order of then Acting Division Superintendent Marcelo Bacalso, prompted some Jehovah's Witnesses in Cebu to appeal to the Secretary of Education Isidro Cariño but the latter did not answer their letter. (p. 21, *Rollo*.)

The petition in G.R. No. 95887 was filed by 25 students who were similarly expelled because Dr. Pablo Antopina, who succeeded Susana Cabahug as Division Superintendent of Schools, would not recall the expulsion orders of his predecessor. Instead, he verbally caused the expulsion of some more children of Jehovah's Witnesses.

On October 31, 1990, the students and their parents filed these special civil actions for *Mandamus*, *Certiorari* and Prohibition alleging that the public respondents acted without or in excess of their jurisdiction and with grave abuse of discretion — (1) in ordering their expulsion without prior notice and hearing, hence, in violation of their right to due process, their right to free public education, and their right to freedom of speech, religion and worship (p. 23, *Rollo*). The petitioners pray that:

c. Judgment be rendered:

- i. declaring null and void the expulsion or dropping from the rolls of herein petitioners from their respective schools;
- ii. prohibiting and enjoining respondent from further barring the petitioners from their classes or otherwise implementing the expulsion ordered on petitioners; and
- iii. compelling the respondent and all persons acting for him to admit and order the re-admission of petitioners to their respective schools. (p. 41, *Rollo*.)

and that pending the determination of the merits of these cases, a temporary restraining order be issued enjoining the respondents from enforcing the expulsion of the petitioners and to re-admit them to their respective classes.

On November 27, 1990, the Court issued a temporary restraining order and a writ of preliminary mandatory injunction commanding the respondents to immediately re-admit the petitioners to their respective classes until further orders from this Court (p. 57, *Rollo*).

The Court also ordered the Secretary of Education and Cebu District Supervisor Manuel F. Biongcong to be impleaded as respondents in these cases.

On May 13, 1991, the Solicitor General filed a consolidated comment to the petitions (p. 98, *Rollo*) defending the expulsion orders issued by the public respondents on the grounds that:

1. Bizarre religious practices of the Jehovah's Witnesses produce rebellious and anti-social school children and consequently disloyal and mutant Filipino citizens.
2. There are no new and valid grounds to sustain the charges of the Jehovah's Witnesses that the DECS' rules and regulations on the flag salute ceremonies are violative of their freedom of religion and worship.
3. The flag salute is devoid of any religious significance; instead, it inculcates respect and love of country, for which the flag stands.
4. The State's compelling interests being pursued by the DECS' lawful regulations in question do not warrant exemption of the school children of the Jehovah's Witnesses from the flag salute ceremonies on the basis of their own self-perceived religious convictions.
5. The issue is not freedom of speech but enforcement of law and jurisprudence.
6. State's power to regulate repressive and unlawful religious practices justified, besides having scriptural basis.
7. The penalty of expulsion is legal and valid, more so with the enactment of Executive Order No. 292 (The Administrative Code of 1987).

Our task here is extremely difficult, for the 30-year old decision of this court in *Gerona* upholding the flag salute law and approving the expulsion of students who refuse to obey it, is not lightly to be trifled with.

It is somewhat ironic however, that after the *Gerona* ruling had received legislative cachet by its incorporation in the Administrative Code of 1987, the present Court believes that the time has come to re-examine it. The idea that one may be compelled to salute the flag, sing the national anthem, and recite the patriotic pledge, during a flag ceremony on pain of being dismissed from one's job or of being expelled from school, is alien to the conscience of the present generation of Filipinos who cut their teeth on the Bill of Rights which guarantees their rights to free speech ** and the free exercise of religious profession and worship (Sec. 5, Article III, 1987 Constitution; Article IV, Section 8, 1973 Constitution; Article III, Section 1[7], 1935 Constitution).

Religious freedom is a fundamental right which is entitled to the highest priority and the amplest protection among human rights, for it involves the relationship of man to his Creator (Chief Justice Enrique M. Fernando's separate opinion in *German vs. Barangan*, 135 SCRA 514, 530-531).

The right to religious profession and worship has a two-fold aspect, *vis.*, freedom to believe and freedom to act on one's belief. The first is absolute as long as the belief is confined within the realm of thought. The second is subject to regulation where the belief is translated into external acts that affect the public welfare (J. Cruz, *Constitutional Law*, 1991 Ed., pp. 176-177).

Petitioners stress, however, that while they do not take part in the compulsory flag ceremony, they do not engage in "external acts" or behavior that would offend their countrymen who believe in expressing their love of country through the observance of the flag ceremony. They quietly stand at attention during the flag ceremony to show their respect for the right of those who choose to participate in the solemn proceedings (Annex F, *Rollo* of G.R. No. 95887, p. 50 and *Rollo* of G.R. No. 95770, p. 48). Since they do not engage in disruptive behavior, there is no warrant for their expulsion.

The sole justification for a prior restraint or limitation on the exercise of religious freedom (according to the late Chief Justice Claudio Teehankee in his dissenting opinion in *German vs. Barangan*, 135 SCRA 514, 517) is the existence of a grave and present danger of a character both grave and imminent, of a serious evil to public safety, public morals, public health or any other legitimate public interest, that the State has a right (and duty) to prevent." Absent such a threat to public safety, the expulsion of the petitioners from the schools is not justified.

The situation that the Court directly predicted in *Gerona* that:

The flag ceremony will become a thing of the past or perhaps conducted with very few participants, and the time will come when we would have citizens untaught and uninculcated in and not imbued with reverence for the flag and love of country, admiration for national heroes, and patriotism — a pathetic, even tragic situation, and all because a small portion of the school population imposed its will, demanded and was granted an exemption. (*Gerona*, p. 24.)

has not come to pass. We are not persuaded that by exempting the Jehovah's Witnesses from saluting the flag, singing the national anthem and reciting the patriotic pledge, this religious group which admittedly comprises a "small portion of the school population" will shake up our part of the globe and suddenly produce a nation "untaught and uninculcated in and unimbued with reverence for the flag, patriotism, love of country and admiration for national heroes" (*Gerona vs. Sec. of Education*, 106 Phil. 2, 24). After all, what the petitioners

seek only is exemption from the flag ceremony, not exclusion from the public schools where they may study the Constitution, the democratic way of life and form of government, and learn not only the arts, sciences, Philippine history and culture but also receive training for a vocation of profession and be taught the virtues of "patriotism, respect for human rights, appreciation for national heroes, the rights and duties of citizenship, and moral and spiritual values (Sec. 3[2], Art. XIV, 1987 Constitution) as part of the curricula. Expelling or banning the petitioners from Philippine schools will bring about the very situation that this Court had feared in *Gerona*. Forcing a small religious group, through the iron hand of the law, to participate in a ceremony that violates their religious beliefs, will hardly be conducive to love of country or respect for duly constituted authorities.

As Mr. Justice Jackson remarked in *West Virginia vs. Barnette*, 319 U.S. 624 (1943):

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

Furthermore, let it be noted that coerced unity and loyalty even to the country, . . . — assuming that such unity and loyalty can be attained through coercion — is not a goal that is constitutionally obtainable at the expense of religious liberty. A desirable end cannot be promoted by prohibited means. (*Meyer vs. Nebraska*, 262 U.S. 390, 67 L. ed. 1042, 1046.)

Moreover, the expulsion of members of Jehovah's Witnesses from the schools where they are enrolled will violate their right as Philippine citizens, under the 1987 Constitution, to receive free education, for it is the duty of the State to "protect and promote the right of all citizens to quality education . . . and to make such education accessible to all (Sec. 1, Art. XIV).

In *Victoriano vs. Elizalde Rope Workers' Union*, 59 SCRA 54, 72-75, we upheld the exemption of members of the Iglesia ni Cristo, from the coverage of a closed shop agreement between their employer and a union because it would violate the teaching of their church not to join any labor group:

. . . It is certain that not every conscience can be accommodated by all the laws of the land; but when general laws conflict with scruples of conscience, exemptions ought to be granted unless some "compelling state interests" intervenes. (*Sherbert vs. Berner*, 374 U.S. 398, 10 L. Ed. 2d 965, 970, 83 S. Ct. 1790.)

We hold that a similar exemption may be accorded to the Jehovah's Witnesses with regard to the observance of the flag ceremony out of respect for their religious beliefs, however "bizarre" those beliefs may seem to others. Nevertheless, their right not to participate in the flag ceremony does not give them a right to disrupt such patriotic exercises. Paraphrasing the warning cited by this Court in *Non vs. Dames II*, 185 SCRA 523, 535, while the highest regard must be afforded their right to the free exercise of their religion, "this should not be taken to mean that school authorities are powerless to discipline them" if they should commit breaches of the peace by actions that offend the sensibilities, both religious and patriotic, of other persons. If they quietly stand at attention during the flag ceremony while their classmates and teachers salute the flag, sing the national anthem and recite the patriotic pledge, we do not see how such conduct may possibly disturb the peace, or pose "a grave

and present danger of a serious evil to public safety, public morals, public health or any other legitimate public interest that the State has a right (and duty) to prevent (German vs. Barangan, 135 SCRA 514, 517).

Before we close this decision, it is appropriate to recall the Japanese occupation of our country in 1942-1944 when every Filipino, regardless of religious persuasion, in fear of the invader, saluted the Japanese flag and bowed before every Japanese soldier. Perhaps, if petitioners had lived through that dark period of our history, they would not quibble now about saluting the Philippine flag. For when liberation came in 1944 and our own flag was proudly hoisted aloft again, it was a beautiful sight to behold that made our hearts pound with pride and joy over the newly-regained freedom and sovereignty of our nation.

Although the Court upholds in this decision the petitioners' right under our Constitution to refuse to salute the Philippine flag on account of their religious beliefs, we hope, nevertheless, that another foreign invasion of our country will not be necessary in order for our countrymen to appreciate and cherish the Philippine flag.

WHEREFORE, the petition for *certiorari* and prohibition is GRANTED. The expulsion orders issued by the public respondents against the petitioners are hereby ANNULLED AND SET ASIDE. The temporary restraining order which was issued by this Court is hereby made permanent.

SO ORDERED.

Narvasa, C.J., Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo and Campos, Jr., JJ., concur.

Quiason, J., took no part.

Gutierrez, Jr., J., is on leave.