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Unfortunately, the Province of Palawan failed to provide sufficient evidence to show that the Camago-Malampaya Natural Gas Project was within its area of responsibility. The maps submitted to this Court were inadequate to prove that the Province of Palawan's claims. Thus, I am constrained to vote with the majority.

Accordingly, I vote to **GRANT** the Petition in G.R. No. 170867 and **DENY** the Petition in G.R. No. 189514.

EN BANC

[G.R. No. 223395. December 04, 2018]

RENATO V. PERALTA, *petitioner, vs.* **PHILIPPINE POSTAL CORPORATION (PHILPOST), REPRESENTED BY MA. JOSEFINA MDELACRUZ IN HER CAPACITY AS POSTMASTER GENERAL AND CHIEF EXECUTIVE OFFICER, THE BOARD OF DIRECTORS OF PHILPOST, REPRESENTED BY ITS CHAIRMAN CESAR N. SARINO,** *respondents.*

SYLLABUS

1. CONSTITUTIONAL LAW; THE 1987 CONSTITUTION; THE JUDICIAL DEPARTMENT; POWER OF JUDICIAL REVIEW; LIMITATIONS.— It is doctrinal that the power of judicial review is subject to the following limitations, *viz*: (1) there must be an actual case or controversy calling for the exercise of judicial power; (2) the constitutionality of the questioned act must be raised by the proper party, *i.e.*, the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its

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enforcement; (3) the question of constitutionality must be raised at the earliest opportunity; and (4) the issue of constitutionality must be the very *lis mota* (the cause of the suit or action) of the case, *i.e.*, the decision on the constitutional or legal decision must be necessary to the determination of the case itself.

2. ID.; ID.; ID.; ID.; REQUISITES; ACTUAL CASE OR CONTROVERSY; EXPOUNDED; PRESENT.— Whether under the traditional or expanded setting, the Court's judicial review power, pursuant to Section 1, Article VIII of the Constitution, is confined to actual cases or controversies. We expounded on this requisite in *SPARK, et. al. v. Quezon City, et. al.*, thus: An actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. In other words, there must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. According to recent jurisprudence, in the Court's exercise of its expanded jurisdiction under the 1987 Constitution, this requirement is simplified by merely requiring a *prima facie* showing of grave abuse of discretion in the assailed governmental act. Corollary to the requirement of an actual case of controversy is the requirement of ripeness. A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. For a case to be considered ripe for adjudication, it is a prerequisite that something has then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action. He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of. Applying these principles, this Court finds that there exists an actual justiciable controversy in this case.

3. ID.; ID.; ID.; ID.; THE FACT THAT THE REMEDY OF INJUNCTION MAY NO LONGER BE VIABLE AS THE ACT SOUGHT TO BE ENJOINED ALREADY TRANSPIRED, WILL NOT AUTOMATICALLY RENDER ACADEMIC THE QUESTION ON THE CONSTITUTIONALITY OF THE SAID ACT. — While this Court agrees that the issue on the remedy of injunction availed

of by the petitioner may no longer be viable to enjoin PhilPost's acts, considering that the act sought to be enjoined already transpired, this does not necessarily mean that the question on the constitutionality of the said acts would automatically be rendered academic. It is precisely PhilPost's issuance, printing and sale of the INC commemorative stamps that created a justiciable controversy since the said acts allegedly violated Sec. 29(2), Art. VI of the 1987 Constitution. Had the petitioner filed the injunction suit prior to the implementation of Proclamation No. 815, any resolution by this Court on the question of PhilPost's printing of the INC commemorative stamps would merely be an advisory opinion, veritably binding no one, for it falls beyond the realm of judicial review.

4. ID.; ID.; ID.; ID.; ID.; EXCEPTIONS TO THE MOOT-AND-ACADEMIC PRINCIPLE; PRESENT.— [E]ven if the case has indeed been rendered moot, this Court can still pass upon the main issue. As We have pronounced in the case of *Prof David v. Pres. Macapagal-Arroyo*. [T]he moot-and-academic principle is not a magical formula that automatically dissuades courts from resolving cases, because they will decide cases, otherwise moot and academic, if they find that: (a) there is a grave violation of the Constitution; (b) the situation is of exceptional character, and paramount public interest is involved; (c) the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; or (d) a case is capable of repetition yet evading review. x x x. Based on x x precedents, the Court has the duty to formulate guiding and controlling constitutional precepts, doctrines or rules. It has the symbolic function of educating the bench and the bar, and in the present petition, the parties involved, on the application of the constitutional provisions allegedly violated *vis-a-vis* the printing and issuance of the INC commemorative stamps. There is no question that the issues being raised affect the public interest, involving as they do, the alleged misuse of public funds and the non-establishment clause which is one of the constitutional guarantees of freedom of religion. This petition calls for a clarification of constitutional principles. Perforce, there is a need to adjudicate the instant case.

5. ID.; ID.; ID.; ID.; LEGAL STANDING OF TAXPAYER EXPLAINED.— In *Mamba, et. al. v. Lara, et. al.*, this Court explained the legal standing of a taxpayer in this wise: A taxpayer

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is allowed to sue where there is a claim that public funds are illegally disbursed, or that the public money is being deflected to any improper purpose, or that there is wastage of public funds through the enforcement of an invalid or unconstitutional law. A person suing as a taxpayer, however, must show that the act complained of directly involves the illegal disbursement of public funds derived from taxation. He must also prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation and that he will sustain a direct injury because of the enforcement of the questioned statute or contract. x x x. Here, petitioner made an allegation of PhilPost's misuse of public funds in the printing of 1,200,000 INC commemorative stamps. Petitioner pointed out that out of the 1,200,000 commemorative stamps printed, only 50,000 pieces were shouldered by the INC based on its MOA with PhilPost. Petitioner, thus, concluded that the production of the additional 1,150,000 stamps were made possible only with the use of public funds and property. On this basis, petitioner indeed, is invested with personality to institute the complaint for injunction with the RTC.

6. ID.; ID.; SEPARATION OF THE CHURCH AND THE STATE VIS-À-VIS FREEDOM OF RELIGION; "BENEVOLENT NEUTRALITY" APPROACH DISCUSSED.— The Constitutional "wall" between the Church and the State, has been jurisprudentially recognized to stem from the country's unfortunate collective experience when the two institutions are commingled into one entity, exercising both power and influence, oftentimes to the detriment of the populace. However, as apparent from the Constitution, the "wall" between the Church and the State exists along with the recognition of freedom of religion. x x x. In *Estrada vs. Escritor*, this Court encapsulated its policy towards these kinds of disputes as "benevolent neutrality": x x x ***Benevolent neutrality*** **recognizes the religious nature of the Filipino people and the elevating influence of religion in society; at the same time, it acknowledges that government must pursue its secular goals.** x x x. *Although our constitutional history and interpretation mandate benevolent neutrality, benevolent neutrality does not mean that the Court ought to grant exemptions every time a free exercise claim comes before it.* ***But it does mean that the Court will not look with hostility or act indifferently towards religious beliefs and practices and that it will strive to***

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accommodate them when it can within flexible constitutional limits; x x x. *We here lay down the doctrine that in Philippine jurisdiction,* ***we adopt the benevolent neutrality approach not only because of its merits*** x x x ***but more importantly, because our constitutional history and interpretation indubitably show that benevolent neutrality is the launching pad from which the Court should take off in interpreting religion clause cases***. x x x. Verily, where the Court has been asked to determine whether there has been an undue enchroachment of this Constitutionally forged "wall", this Court has adopted a stance of "benevolent neutrality". Rightfully so, for this incorporates the Constitutional principle of separation of the Church and the State while recognizing the people's right to express their belief or non- belief of a Supreme Being.

7. ID.; ID.; SECTION 29 (2), ARTICLE VI OF THE 1987 CONSTITUTION; RESPONDENT-PHILIPPINE POSTAL CORPORATION'S (PHILPOST) PRINTING AND ISSUANCE OF THE IGLESIA NI CRISTO (INC) COMMEMORATIVE STAMPS DID NOT AMOUNT TO A VIOLATION OF THE NON-ESTABLISHMENT OF RELIGION CLAUSE.— There is no quibbling that as to the 50,000 stamps ordered, printed and issued to INC, the same did not violate the Constitutional prohibitions separating State matters from religion. x x x [T]he costs for the printing and issuance of the aforesaid 50,000 stamps were all paid for by INC. Any perceived use of government property, machines or otherwise, is *de minimis* and certainly do not amount to a sponsorship of a specific religion. Also, We see no violation of the Constitutional prohibition on establishment of religion, insofar as the remaining 1,150,000 pieces of stamps printed and distributed by PhilPost. First, there is no law mandating anyone to avail of the INC commemorative stamps, nor is there any law purporting to require anyone to adopt the INC's teachings. x x x. As to the use of the government's machinery in printing and distribution of the 1.2 million stamps, this Court does not find that the same amounted to sponsorship of INC as a religion considering that the same is no different from other stamps issued by PhilPost acknowledging persons and events of significance to the country, such as those printed celebrating National Artists, past Philippine Presidents, and events of organizations, religious or not. x x x. Likewise, our review

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of the records does not disclose that PhilPost has exclusively or primarily used its resources to benefit INC, to the prejudice of other religions. Finally, other than this single transaction with INC, this Court did not find PhilPost to have been unneccesarily involved in INC's affairs. Based on the foregoing, this Court is not convinced that PhilPost has actually used its resources to endorse, nor encourage Filipinos to join INC or observe the latter's doctrines. On the contrary, this Court agrees with respondents that the printing of the INC commemorative stamp was endeavored merely as part of PhilPost's ordinary business.

8. ID.; ID.; SECTION 29 (2), ARTICLE VI OF THE 1987 CONSTITUTION; THE STATE IS PROHIBITED FROM USING ITS RESOURCES TO SOLELY BENEFIT ONE RELIGION; RESPONDENT-PHILPOST'S PRINTING AND ISSUANCE OF THE IGLESIA NI CRISTO (INC) COMMEMORATIVE STAMPS NOT VIOLATIVE OF THE PROHIBITION AGAINST ILLEGAL DISBURSEMENT OF PUBLIC FUNDS FOR THE SOLE ADVANTAGE OF A CHURCH.— [W]e do not find that there was illegal disbursement of funds under Section 29(2) of Article VI of the Constitution. The application of this prohibition towards government acts was already clarified by the Court in *Re: Letter of Tony Q. Valenciano, Holding Of Religious Rituals At The Hall Of Justice Building In Quezon City*: Section 29 (2), Article VI of the 1987 Constitution provides, "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." x x x. Thus, the words "pay" and "employ" should be understood to mean that **what is prohibited is the use of public money or property for the sole purpose of benefiting or supporting any church**. The prohibition contemplates a scenario where the appropriation is primarily intended for the furtherance of a particular church. It has also been held that the aforecited constitutional provision "**does not inhibit the use of public property for religious purposes when the religious character**

of such use is merely incidental to a temporary use which is available indiscriminately to the public in general." x x x. Indeed, what is prohibited is the State using its resources to solely benefit one religion. As stated above, the records do not show that the State has been using the resources and manpower of PhilPost for INC's sole advantage. On the contrary, the stamps printed and issued by PhilPost, as seen through its website, feature various entities and organizations, other than religious sects.

9. ID.; ID.; ID.; THE DESIGN OF THE INC COMMEMORATIVE STAMP, THE FACADE OF THE CHURCH AND THE IMAGE OF FELIX Y. MANALO, IS CONSTITUTIONALLY PERMISSIBLE, AS THE SAME IS MERELY AN ACKNOWLEDGMENT OF A HISTORICAL MILESTONE, BUT IT DOES NOT ENDORSE, ESTABLISH OR DISPARAGE OTHER RELIGIOUS GROUPS AND EVEN NON-BELIEVERS.— Adopting the stance of benevolent neutrality, this Court deems the design of the INC commemorative stamp constitutionally permissible. As correctly held by the CA, there is an intrinsic historical value in the fact that Felix Y. Manalo is a Filipino and that the INC is a Filipino institution. x x x. Indeed, the design depicted in the INC commemorative stamp is merely a recognition of the continuous existence of a group that is strictly Filipino. As compared to major religious groups established in the country, Felix Y. Manalo, and the INC, are not plain religious symbols, but also a representation of a group that is distinctly unique to the Philippines. To the mind of this Court, the use of the facade of the Church and the image of Felix Y. Manalo is nothing more than an acknowledgment of a historical milestone. It does not endorse, establish or disparage other religious groups and even non-believers, especially considering the fact that PhilPost also print stamps with symbols which can arguably be connected to religion.

LEONEN, *J.*, *dissenting opinion*:

1. CONSTITUTIONAL LAW; THE 1987 CONSTITUTION; BILL OF RIGHTS; FREEDOM OF RELIGION; NON-ESTABLISMENT CLAUSE; THE STATE HAS FUNDAMENTAL DUTIES TO RESPECT THE FREE

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EXERCISE OF ANY RELIGIOUS FAITH, AND TO NOT ESTABLISH, ENDORSE, OR FAVOR ANY RELIGION.— The non-establishment clause is found in Article III, Section 5 of the Constitution, thus: Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights. Based on this provision, the State has two (2) fundamental duties: to respect the free exercise of any religious faith; and to not establish, endorse, or favor any religion.

2. ID.; ID.; LEGISLATIVE DEPARTMENT; THE APPROPRIATION OR EMPLOYMENT OF PUBLIC MONEY OR PROPERTY FOR THE USE, BENEFIT, OR SUPPORT OF ANY RELIGION IS PROHIBITED. — x x x [A]rticle VI, Section 29(2) of the Constitution prohibits the appropriation or employment of public money or property for the use, benefit, or support of any religion: Section 29. .... (2) 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. The text of Article VI, Section 29(2) allows for no qualification.

3. ID.; ID.; DECLARATION OF PRINCIPLES AND STATE POLICIES; SEPARATION OF STATE AND CHURCH VIS-À-VIS FREEDOM OF RELIGION; THE GOVERNMENT'S ISSUANCE OF STAMPS IN FAVOR OF IGLESIA NI CRISTO FAVORS ITS DOMINANT RELIGIOUS TEACHINGS DISGUISED THROUGH ITS ANNIVERSARY; THE SPONSORSHIP OF ANY FAITH THROUGH A COMMEMORATIVE STAMP UNWITTINGLY FURTHERS PROSELYTIZATION.— It is true that this Court has recognized one instance when governmental action may be inextricably linked with an event that is religious in character. In the old case of *Aglipay v. Ruiz*, this Court allowed the "incidental endorsement" of a

religion so long as the challenged act has a secular purpose. x x x. Identifying the secular purpose in an image and projecting its dominance are not enough. This mode of analysis invites courts to use their subjectivities in deciding how to look at an image. In a country with a dominant religion, this spells disaster for those whose faiths are not in the majority. It will also further marginalize those whose spiritual beliefs are not theistic, e.g. Buddhists, or those who are agnostic or atheistic. Iglesia ni Cristo's ability to fund the printing of the centennial stamps attests to its cultural dominance. It also reveals that it has the resources to mark its own anniversary through means other than the use of government facilities. Therefore, the government's issuance of stamps in its favor has no other purpose other than to favor its dominant religious teachings disguised through its anniversary. Our reading of the non-establishment clause should not be as superficial. Dominant religions may command their faithful to vote as a block for certain political candidates. In doing so, they can slowly erode the separation of church and State, sacrificing genuine sovereignty among our people. Therefore, the sponsorship of any faith through a commemorative stamp unwittingly furthers proselytization.

4. **ID.; ID.; ID.; ID.; THE SEPARATION OF CHURCH AND STATE SHALL BE INVIOLABLE. SHOULD THERE BE A LINK BETWEEN GOVERNMENTAL ACTION AND RELIGION, THE BURDEN IS ON THE GOVERNMENT TO SHOW THAT THE LINK IS INEVITABLE AND UNAVOIDABLE.—** *Aglipay* and the proposed decision record the pliability of our State to major religious denominations. In the guise of looking for the dominant secular purpose or benevolent neutrality, current doctrine may only be favoring these religions. Furthermore, it is not clear as to who decides that a particular religion is officially part of government history. In lieu of subjectivity, we must return to the Constitution in Article II, Section 6: the separation of church and State shall be inviolable. Should there be a link between governmental action and religion, the burden is on the government to show that the link is inevitable and unavoidable. Our Bill of Rights protects those who do not count themselves as part of the dominant religious faiths. Their beliefs, though fervent, may not translate to huge resources allowing them to influence politics and the use of the State's resources. Yet, it is for them that the

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assurance of separation of church and state has been made. Reifying faith in *Aglipay* does the exact opposite.

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for respondents.

D E C I S I O N

TIJAM, *J.*:

Assailed in this Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court is the Decision[2] dated July 24, 2015 and the Resolution[3] dated March 8, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 103151.

The Antecedents

On May 10, 2014, respondent Philippine Postal Corporation (PhilPost) issued a stamp commemorating Iglesia ni Cristo's (INC's) Centennial Celebration. The design of the stamp showed a photo of INC founder, the late Felix Y. Manalo (Manalo) with the designation on the left side containing the words "*Felix Y. Manalo, 1886-1963 First Executive Minister of Iglesia ni Cristo*", with the Central Temple of the religious group at the background. At the right side of Manalo's photo is the INC's centennial logo which contained a torch enclosed by a two concentric circles containing the words "*IGLESIA Nl CRISTO CENTENNIAL 1914-2014*".[4]

On June 16, 2014, petitioner Renato V. Peralta (petitioner) filed a complaint[5] for injunction with the Regional Trial Court

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[1] *Rollo*, pp. 3-14.

[2] Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Priscilla J. Baltazar-Padilla and Socorro B. Inting. CA *rollo*, pp. 79-94.

[3] *Id*. at 135-140.

[4] *Rollo*, p. 7; CA *rollo*, p. 80.

[5] Records, pp. 1-10.

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(RTC), Br. 33 of Manila, assailing the constitutionality of the printing, issuance and distribution of the INC commemorative centennial stamps, allegedly paid for by respondent PhilPost using public funds.

In his complaint, petitioner alleged that the printing and issuance of the INC commemorative stamp involved disbursement of public funds, and violated. Section 29(2) of Article VI[6] of the 1987 Constitution. He argued that respondents' act of releasing the said stamps was unconstitutional because it was tantamount to sponsorship of a religious activity; it violated the separation of the Church and the State; and the non-establishment of religion clause. Thus, petitioner prayed that respondents be restrained from issuing and distributing the INC commemorative stamps.[7]

After service of summons to respondents PhilPost and its Board of Directors, and a hearing on the petitioner's application for Temporary Restraining Order (TRO), the RTC denied the same in its Order[8] dated June 23, 2014.

Respondents filed their Answer,[9] maintaining that no public funds were disbursed in the printing of the INC commemorative stamps. They alleged that there was a Memorandum of Agreement[10] (MOA) dated May 7, 2014 executed between PhilPost and INC, where it was provided that the costs of printing

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[6] **Section 29.** xxx

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2. 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, 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.

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[7] Records, pp. 4-7.

[8] *Id*. at 53-60.

[9] *Id*. at 105-112.

[10] *Id*. at 88-90.

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will be borne by INC. They claimed that the proceeds of the sale of the stamps will not redound to the sole benefit of INC.[11] The printing, according to them, is part of PhilPost's philatelic products, which will promote tourism in the country because it will attract people from all over the world.[12] They maintained that any sectarian benefit to the INC is merely incidental. As to petitioner's prayer for injunctive relief, respondents contended that petitioner failed to demonstrate irreparable injury, and that he cannot seek to restrain the printing and distribution of the stamps as these were already printed prior to the filing of the complaint.

On July 25, 2014, the RTC issued an Order,[13] denying petitioner's application for the issuance of a preliminary injunction and dismissing the action. It ruled that it was not a taxpayer's suit and that it did not violate Section 29 (2), Article VI of the 1987 Philippine Constitution.[14]

Petitioner appealed the RTC's decision with the CA, but the same was denied in its July 24, 2015 decision. The CA ruled that although the action is considered as a taxpayer's suit, the printing and issuance of the commemorative stamp did not violate the Constitution.[15]

Aggrieved, petitioner filed a motion for reconsideration[16] of the CA's decision, but the same was denied for lack of merit in the CA's March 8, 2016 Resolution.

Hence, the instant petition.

The Court's Ruling

Petitioner's arguments

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[11] *Id*. at 109.

[12] *Id*. at 110-111.

[13] Penned by Presiding Judge Reynaldo G. Ros. CA *rollo*, pp. 30-31.

[14] As mentioned in the Petition of Renato V. Peralta *Rollo*, p. 3.

[15] *Id*.

[16] CA *rollo*, pp. 101-112.

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Petitioner reiterates his argument that the CA failed to judiciously analyze the design of the INC commemorative stamp as to conclude that the same is "*more historical than religious*". He argues that the INC stamp, which commemorates the 100th year founding of INC, particularly the INC Central Temple and centennial logo, is purely religious. He explains that in *Aglipay vs. Ruiz*,[17] the stamp deleted the grapevine with stalks of wheat in its design, and merely contained the Philippine map and the location of the City of Manila, with inscription,"*Seat XXXIII International Eucharistic Congress, February 3-7, 1937*". For petitioner, what was emphasized in the stamp subject of the case of *Aglipay vs. Ruiz*[18] was Manila, and not the Eucharistic Congress. Meanwhile, in this case, the INC stamp purportedly emphasized the INC as a religious institution.

Petitioner likewise cited the MOA between INC and respondent PhilPost to emphasize the religious purpose of printing the stamp.

PhilPost's comment

For respondents' part, they maintained the constitutionality of the stamps issued. First, they claimed that the printing, issuance and distribution of the assailed INC commemorative stamps can neither be restrained nor enjoined, because they have become *fait accompli*.[19]

Respondents also questioned petitioner's standing as a taxpayer. They point out that there is no illegal disbursement of public funds, as the cost of printing and issuance of the assailed commemorative stamps was exclusively borne by INC for its consumption, and no public funds were disbursed. The remaining pieces of stamps were used for sale by PhilPost to its postal clients. It emphasized that the sales proceeds were not intended to support the INC as a religious sect, but to promote the country as the chosen venue of an international commemorative event,

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[17] 64 Phil. 201, 209 (1937).

[18] *Id*.

[19] *Rollo*, p. 32.

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given INC's presence in other countries. Respondents also pointed out that petitioner has not shown that he will suffer a direct injury on account of the printing and issuance of the INC commemorative stamps. Respondents also agreed with the findings of the CA that there is intrinsic historical value in the design of the INC stamp, considering that INC is a Filipino institution.[20]

Lastly, respondents contend that Section 29(2), Article VI of the 1987

Constitution does not apply, as it pertains to the Legislative Department. Respondents alleged that the facts in the cases of *Aglipay vs Ruiz* and *Manosca vs. Court of Appeals*[21] are different from the case at bar. In *Aglipay*, the funds originated from the Insular Treasury - from funds not otherwise appropriated. Meanwhile, *Manosca*pertained to an expropriation case, hence, entailed appropriation of public funds. In this case, however, respondents emphasized that PhilPost is a government owned and controlled corporation (GOCC), which operates on its own capital. Thus, when INC sought the printing of the assailed stamps, from its own funds and for its primary use, the prohibition was not violated. It alleged that the printing of the INC stamps was done as a fund-raising activity, and not to endorse or benefit any religion.

Based from the aforesaid arguments of the parties, the issue of this case centers on the constitutionality of the respondents' act in issuing and selling postage stamps commemorating the INC's centennial celebration.

The petition lacks merit.

Procedural Aspect -

It is doctrinal[22] that the power of judicial review is subject to the following limitations, *viz*: (1) there must be an actual

[20] *Id*. at 32-35.

[21] 322 Phil. 442 (1996).

[22] See *Lawyers Against Monopoly and Poverty (LAMP), et al. v. The Secretary of Budget and Management, et al.*, 686 Phil. 357, 369 (2012);

case or controversy calling for the exercise of judicial power; (2) the constitutionality of the questioned act must be raised by the proper party, *i.e.*, the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest opportunity; and (4) the issue of constitutionality must be the very *lis mota* (the cause of the suit or action) of the case, *i.e.*, the decision on the constitutional or legal decision must be necessary to the determination of the case itself.

Of these four, the first and second conditions will be the focus of Our discussion.

Actual case or controversy -

Whether under the traditional or expanded setting, the Court's judicial review power, pursuant to Section 1, Article VIII of the Constitution, is confined to actual cases or controversies. We expounded on this requisite in *SPARK, et. al. v. Quezon City, et. al.*,[23] thus:

> An actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. In other words, there must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. According to recent jurisprudence, in the Court's exercise of its expanded jurisdiction under the 1987 Constitution, this requirement is simplified by merely requiring a *prima facie* showing of grave abuse of discretion in the assailed governmental act.

Corollary to the requirement of an actual case of controversy is the requirement of ripeness. A question is ripe for adjudication when

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Advocates For Truth in Lending, Inc., et al. v. Bangko Sentral Monetary Board, et al., 701 Phil. 483, 494 (2013); and *Joya v. Philippine Commission on Good Government (PCGG)*, 296-A Phil. 595, 602 (1993).

[23] G.R. No. 225442, August 8, 2017.

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the act being challenged has had a direct adverse effect on the individual challenging it. For a case to be considered ripe for adjudication, it is a prerequisite that something has then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action. He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of. [Citations omitted.]

Applying these principles, this Court finds that there exists an actual justiciable controversy in this case.

Here, it is evident that PhilPost - under the express orders of then President Benigno Aquino III (President Aquino III), through Proclamation No. 815 printed, issued and sold the INC commemorative stamps. PhilPost's act gave rise to petitioner's injunction suit in which he made the following allegations: (1) the printing of the INC commemorative stamps violated Sec. 29(2), Art. VI of the 1987 Constitution; and (2) the purpose of the stamp as indicated in the MOA is "tantamount to sponsorship" of a religious activity, violative of the non-establishment clause. These assertions are no longer hypothetical in nature, but already amount to a legal claim susceptible for adjudication.

Respondents claim that the Injunction suit filed by petitioner has become moot since the acts sought to be enjoined - printing, issuance and distribution of the INC commemorative stamps was *fait accompli*.[24] They anchored their claim on Our ruling in *Go v. Looyuko*,[25] which essentially states that when the events sought to be prevented by injunction have already happened, nothing more could be enjoined.

We clarify.

While this Court agrees that the issue on the remedy of injunction availed of by the petitioner may no longer be viable to enjoin PhilPost's acts, considering that the act sought to be

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[24] *Meaning, an accomplished or consummated act.*

[25] 563 Phil. 36, 68 (2007).

enjoined already transpired, this does not necessarily mean that the question on the constitutionality of the said acts would automatically be rendered academic.

It is precisely PhilPost's issuance, printing and sale of the INC commemorative stamps that created a justiciable controversy since the said acts allegedly violated Sec. 29(2), Art. VI of the 1987 Constitution. Had the petitioner filed the injunction suit prior to the implementation of Proclamation No. 815, any resolution by this Court on the question of PhilPost's printing of the INC commemorative stamps would merely be an advisory opinion, veritably binding no one, for it falls beyond the realm of judicial review.

Nonetheless, even if the case has indeed been rendered moot, this Court can still pass upon the main issue. As We have pronounced in the case of *Prof David v. Pres. Macapagal-Arroyo*,[26]

> [T]he moot-and-academic principle is not a magical formula that automatically dissuades courts from resolving cases, because they will decide cases, otherwise moot and academic, if they find that: (a) there is a grave violation of the Constitution; (b) the situation is of exceptional character, and paramount public interest is involved; (c) the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; or (d) a case is capable of repetition yet evading review.[27]

This Court, in *Mattel, Inc. v. Francisco, et. al.*,[28] enumerated several cases where the exceptions to the moot-and-academic principle were applied; thus:

> xxx in *Constantino v. Sandiganbayan (First Division)*,[29] Constantino, a public officer, and his co-accused, Lindong, a private citizen, filed separate appeals from their conviction by the

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[26] 522 Phil. 705 (2006).

[27] *Id*. at 754.

[28] 582 Phil. 494 (2008).

[29] 559 Phil. 622 (2007).

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Sandiganbayan for violation of Section 3(e) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act. While Constantino died during the pendency of his appeal, the Court still ruled on the merits thereof, considering the exceptional character of the appeals of Constantino and Lindong in relation to each other; that is, the two petitions were so intertwined that the absolution of the deceased Constantino was determinative of the absolution of his co-accused Lindong.[30]

In *Public Interest Center, Inc. v. Elma*,[31] the petition sought to declare as null and void the concurrent appointments of Magdangal B. Elma as Chairman of the Presidential Commission on Good Government (PCGG) and as Chief Presidential Legal Counsel (CPLC) for being contrary to Section 13, Article VII and Section 7, par. 2, Article IX-B of the 1987 Constitution. While Elma ceased to hold the two offices during the pendency of the case, the Court still ruled on the merits thereof, considering that the question of whether the PCGG Chairman could concurrently hold the position of CPLC was one capable of repetition.[32]

In *David v. Arroyo*,[33] seven petitions for certiorari and prohibition were filed assailing the constitutionality of the declaration of a state of national emergency by President Gloria Macapagal-Arroyo. While the declaration of a state of national emergency was already lifted during the pendency of the suits, this Court still resolved the merits of the petitions, considering that the issues involved a grave violation of the Constitution and affected the public interest. The Court also affirmed its duty to formulate guiding and controlling constitutional precepts, doctrines or rules, and recognized that the contested actions were capable of repetition.[34]

In *Pimentel, Jr. v. Exec. Secretary Ermita*,[35] the petition questioned the constitutionality of President Gloria Macapagal-Arroyo 's

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[30] *Mattel v. Francisco*, *supra* note 28, *id*. at 502.

[31] 523 Phil. 550 (2006).

[32] *Mattel v. Francisco*, *supra* note 28, *id*. at 502.

[33] 522 Phil. 705 (2006).

[34] *Mattel v. Francisco*, *supra* note 28, *id.* at 502-503.

[35] 509 Phil. 567 (2005).

appointment of acting secretaries without the consent of the Commission on Appointments while Congress was in session. While the President extended *ad interim* appointments to her appointees immediately after the recess of Congress, the Court still resolved the petition, noting that the question of the constitutionality of the President's appointment of department secretaries in acting capacities while Congress was in session was one capable of repetition.[36]

In *Atienza v. Villarosa*,[37] the petitioners, as Governor and Vice-Governor, sought for clarification of the scope of the powers of the Governor and Vice-Governor under the pertinent provisions of the Local Government Code of 1991. While the terms of office of the petitioners expired during the pendency of the petition, the Court still resolved the issues presented to formulate controlling principles to guide the bench, bar and the public.[38]

In *Gayo v. Verceles*,[39] the petition assailing the dismissal of the petition for *quo warranto* filed by Gayo to declare void the proclamation of Verceles as Mayor of the Municipality of Tubao, La Union during the May 14, 2001 elections, became moot upon the expiration on June 30, 2004 of the contested term of office of Verceles. Nonetheless, the Court resolved the petition since the question involving the one-year residency requirement for those running for public office was one capable of repetition.[40]

In *Albaña v. Commission on Elections*,[41] the petitioners therein assailed the annulment by the Commission on Elections of their proclamation as municipal officers in the May 14, 2001 elections. When a new set of municipal officers was elected and proclaimed after the May 10, 2004 elections, the petition was mooted but the Court resolved the issues raised in the petition in order to prevent a repetition thereof and to enhance free, orderly, and peaceful elections.[42]

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[36] *Mattel v. Francisco*, *supra* note 28 at 503.

[37] 497 Phil. 689 (2005).

[38] *Mattel v. Francisco*, *supra* note 28 at 503.

[39] 492 Phil. 592 (2005).

[40] *Mattel v. Francisco*, *supra* note 28 at 503.

[41] 478 Phil. 941 (2004).

[42] *Mattel v. Francisco*, *supra* note 28, *id.* at 504.

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Additionally, in *Arvin R. Balag v. Senate of the Philippines*,[43] We likewise mentioned the following cases:

> xxx in *Republic v. Principalia Management and Personnel Consultants, Inc.*,[44] the controversy therein was whether the Regional Trial Court (RTC) had jurisdiction over an injunction complaint filed against the Philippine Overseas Employment Administration (POEA) regarding the cancellation of the respondent's license. The respondent then argued that the case was already moot and academic because it had continuously renewed its license with the POEA. The Court ruled that although the case was moot and academic, it could still pass upon the main issue for the guidance of both bar and bench, and because the said issue was capable of repetition.
>
> xxx in *Regulus Development, Inc. v. Dela Cruz*,[45] the issue therein was moot and academic due to the redemption of the subject property by the respondent. However, the Court ruled that it may still entertain the jurisdictional issue of whether the RTC had equity jurisdiction in ordering the levy of the respondent's property since it posed a situation capable of repetition yet evading judicial review.

Based on these precedents, the Court has the duty to formulate guiding and controlling constitutional precepts, doctrines or rules. It has the symbolic function of educating the bench and the bar, and in the present petition, the parties involved, on the application of the constitutional provisions allegedly violated *vis-a-vis* the printing and issuance of the INC commemorative stamps. There is no question that the issues being raised affect the public interest, involving as they do, the alleged misuse of public funds and the non-establishment clause which is one of the constitutional guarantees of freedom of religion. This petition calls for a clarification of constitutional principles. Perforce, there is a need to adjudicate the instant case.

Legal Standing -

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[43] G. R. No. 234608, July 3, 2018.

[44] 768 Phil. 334 (2015).

[45] 779 Phil. 75 (2016).

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In *Mamba, et. al. v. Lara, et. al.*,[46] this Court explained the legal standing of a taxpayer in this wise:

> A taxpayer is allowed to sue where there is a claim that public funds are illegally disbursed, or that the public money is being deflected to any improper purpose, or that there is wastage of public funds through the enforcement of an invalid or unconstitutional law. A person suing as a taxpayer, however, must show that the act complained of directly involves the illegal disbursement of public funds derived from taxation. He must also prove that he has sufficient interest in preventing the illegal expenditure of money raised by taxation and that he will sustain a direct injury because of the enforcement of the questioned statute or contract. xxx. [Citations omitted.][47]

Here, petitioner made an allegation of PhilPost's misuse of public funds in the printing of 1,200,000 INC commemorative stamps. Petitioner pointed out that out of the 1,200,000 commemorative stamps printed, only 50,000 pieces were shouldered by the INC based on its MOA with PhilPost. Petitioner, thus, concluded that the production of the additional 1,150,000 stamps were made possible only with the use of public funds and property. On this basis, petitioner indeed, is invested with personality to institute the complaint for injunction with the RTC. As correctly observed by the CA:

> [Petitioner] Peralta contends that as the stamps covered by the MOA and paid for by the INC pertain only to 50,000 pieces, public funds and property were used by [respondent] Philpost in the printing and distribution of the remaining 1,150,000 stamps. For purposes of determining capacity to sue as a taxpayer, it is sufficient that [Petitioner] Peralta made allegations of such nature.[48]

Substantive Aspect -

The non-establishment of religion clause is not equivalent to indifference to religion

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[46] 623 Phil. 63 (2009).

[47] *Id*. at 76.

[48] CA *rollo*, p. 84.

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At the outset, this Court notes that the petition has argued, in length, about how the appellate court apparently erred in failing to find the design of the stamp unconstitutional. Citing *Aglipay vs. Ruiz*, petitioner insists that the religious nature of the INC stamp makes the same unconstitutional, since it violates the prohibition against the State from establishing a religion.

It is at once apparent that petitioner has summarily equated religion to unconstitutionality. Certainly, examination of jurisprudence, both here and in the United States, as well as the context over which this stamp has been issued, inevitably leads this Court to agree with the CA, and uphold the issuance of the INC commemorative stamp.

True, fundamental to the resolution of this case is the policy of the State on the inviolability of the principle of separation of the church and the state. Justice Isagani Cruz explained the rationale of this principle in this wise:

> The rationale of the rule is summed up in the familiar saying, "Strong fences make good neighbors." The idea 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. The demarcation line calls on the entities to "render therefore unto Caesar the things that are Caesar's and unto God the things that are God's."[49]

The 1987 Constitution expressly provides for the following provisions, giving life to the policy of separation of the Church and the State; thus:

> ARTICLE II
> DECLARATION OF PRINCIPLES AND STATE POLICIES
> PRINCIPLES
>
> x x x x x x x x x
>
> Section 6. The separation of Church and State shall be inviolable.

[49] Cruz, Philippine Political Law (2002), p. 68.

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x x x x x x x x x

ARTICLE III
BILL OF RIGHTS

x x x x x x x x x

Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

x x x x x x x x x

ARTICLE V

THE LEGISLATIVE DEPARTMENT

x x x x x x x x x

Section 29.
(1) xxx

(2) 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, 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 leprosariu

x x x x x x x x x

The Constitutional "wall" between the Church and the State, has been jurisprudentially recognized to stem from the country's unfortunate collective experience when the two institutions are commingled into one entity, exercising both power and influence, oftentimes to the detriment of the populace.

However, as apparent from the Constitution, the "wall" between the Church and the State exists along with the recognition of freedom of religion. In fact, review of jurisprudence would reveal that this Court has carefully weighed this principles as to allow the broadest exercise of religious freedom without infringing the non-establishment clause.

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In upholding the issuance of the Thirty-third International Eucharistic Congress commemorative stamp, this Court in *Aglipay v. Ruiz*[50] recognized how religion is integrated in the Filipino way of life:

> The more important question raised refers to the alleged violation of the Constitution by the respondent in issuing and selling postage stamps commemorative of the Thirty-third International Eucharistic Congress. It is alleged that this action of the respondent is violative of the provisions of section 13, subsection 3, Article VI, of the Constitution of the Philippines, which provides as follows:
>
> > "No public money or property shall ever be appropriated, applied, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, secretarian institution, or system of religion, or for the use, benefit, or support 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, orphanage, or leprosarium."
>
> The prohibition herein expressed is a direct corollary of the principle of separation of church and state. Without the necessity of adverting to the historical background ofthis principle in our country, it is sufficient to say that our history, not to speak of the history of mankind, has taught us that the union of church and state is prejudicial to both, for ocassions might arise when the estate (sic) will use the church, and the church the state, as a weapon in the furtherance of their respective ends and aims. The Malolos Constitution recognized this principle of separation of church and state in the early stages of our constitutional development; it was inserted in the Treaty of Paris between the United States and Spain of December 10, 1898, reiterated in President McKinley's Instructions to the Philippine Commission, reaffirmed in the Philippine Bill of 1902 and in the Autonomy Act of August 29, 1916, and finally embodied in the Constitution of the Philippines as the supreme expression of the Filipino people. It is almost trite to say now that in this country we enjoy both religious and civil freedom. All the officers of the Government, from the highest to the lowest, in taking their oath to support and defend the Constitution, bind themselves to recognize and respect the constitutional guarantee

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[50] *Supra* note 17.

of religious freedom, with its inherent limitations and recognized implications. It should be stated that what is guaranteed by our Constitution is religious liberty, not mere religious toleration.

Religious freedom, however, as a constitutional mandate is not inhibition of profound reverence for religion and is not denial of its influence in human affairs. Religion as a profession of faith to an active power that binds and elevates man to his Creator is recognized. And, in so far as it instills into the minds the purest principles of morality, its influence is deeply felt and highly appreciated. When the Filipino people, in the preamble of their Constitution, implored "the aid of *Divine Providence*, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty and democracy," they thereby manifested their intense religious nature and placed unfaltering reliance upon Him who guides the destinies of men and nations. **The elevating influence of religion in human society is recognized here as elsewhere. In fact, certain general concessions are indiscriminately accorded to religious sects and denominations.** Our Constitution and laws exempt from taxation properties devoted exclusively to religious purposes (sec. 14, subsec. 3, Art. VI, Constitution of the Philippines and sec. 1, subsec. 4, Ordinance appended thereto; Assessment Law, sec. 344, par. [c]. Adm. Code). Sectarian aid is not prohibited when a priest, preacher, minister or other religious teacher or dignitary as such is assigned to the armed forces or to any penal institution, orphanage or leprosarium (sec. 13, subsec. 3, Art. VI, Constitution of the Philippines). Optional religious instruction in the public schools is by constitutional mandate allowed (sec. 5, Art. XIII, Constitution of the Philippines, in relation to sec. 928, Adm. Code). Thursday and Friday of Holy Week, Thanksgiving Day, Christmas Day, and Sundays are made legal holidays (sec. 29, Adm. Code) because of the secular idea that their observance is conclusive to beneficial moral results. The law allows divorce but punishes polygamy and bigamy; and certain crimes against religious worship are considered crimes against the fundamental laws of the state (*see* arts. 132 and 133, Revised Penal Code).[51] (Emphasis ours)

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[51] *Id*. at 205-207.

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In *Iglesia ni Cristo vs. Court of Appeals*,[52] this Court upheld the MTRCB's regulatory authority over religious programs but ultimately upheld the contents of the INC's television program which attacked other religions, *viz*:

> The law gives the Board the power to screen, review and examine all "television programs." By the clear terms of the law, the Board has the power to "approve, delete xxx and/or prohibit the xxx exhibition and/or television broadcast of xxx television programs xxx." The law also directs the Board to apply "contemporary Filipino cultural values as standard" to determine those which are objectionable for being "immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines and its people, or with a dangerous tendency to encourage the commission of violence or of a wrong or crime."
>
> Petitioner contends that the term "television program" should not include religious programs like its program "Ang Iglesia ni Cristo." A contrary interpretation, it is urged, will contravene Section 5, Article III of the Constitution which guarantees that "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."
>
> We reject petitioner's submission which need not set us adrift in a constitutional voyage towards an uncharted sea. Freedom of religion has been accorded a preferred status by the framers of our fundamental laws, past and present We have affirmed this preferred status well aware that it is "designed to protect the broadest possible liberty of conscience, to allow each man to believe as his conscience directs, to profess his beliefs, and to live as he believes he ought to live, consistent with the liberty of others and with the common good." We have also laboriously defined in our jurisprudence the intersecting umbras and penumbras of the right to religious profession and worship. To quote the summation of Mr. Justice Isagani Cruz, our well-known constitutionalist:
>
> Religious Profession and Worship
>
> The right to religious profession and worship has a two-fold aspect, *viz*., freedom to believe and freedom to act on one's

[52] 328 Phil. 893 (1996).

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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 the public welfare.

(1) Freedom to Believe

The individual is free to believe (or disbelieve) as he pleases concerning the hereafter. He may indulge his own theories about life and death; worship any god he chooses, or none at all; embrace or reject any religion; acknowledge the divinity of God or of any being that appeals to his reverence; recognize or deny the immortality of his soul - in fact, cherish any religious conviction as he and he alone sees fit. However absurd his beliefs may be to others, even if they be hostile and heretical to the majority, he has full freedom to believe as he pleases. He may not be required to prove his beliefs. He may not be punished for his inability to do so. Religion, after all, is a matter of faith. Men may believe what they cannot prove. Every one has a right to his beliefs and he may not be called to account because he cannot prove what he believes.

(2) Freedom to Act on One's Beliefs

But where the individual externalizes his beliefs in acts or omissions that affect the public, his freedom to do so becomes subject to the authority of the State. As great as this liberty may be, religious freedom, like all the other rights guaranteed in the Constitution, can be enjoyed only with a proper regard for the rights of others. It is error to think that the mere invocation of religious freedom will stalemate the State and render it impotent in protecting the general welfare. The inherent police power can be exercised to prevent religious practices inimical to society. And this is true even if such practices are pursued out of sincere religious conviction and not merely for the purpose of evading the reasonable requirements or prohibitions of the law.

Justice Frankfurter put it succinctly: The constitutional provision on religious freedom terminated disabilities, it did not create new privileges. It gave religious liberty, not civil immunity. Its essence is freedom from conformity to religious dogma, not freedom from conformity to law because of religious dogma.[53]

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[53] *Id*. at 923-925.

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In *Estrada vs. Escritor*,[54] this Court encapsulated its policy towards these kinds of disputes as "benevolent neutrality":

> By adopting the above constitutional provisions on religion, the Filipinos manifested their adherence to the *benevolent neutrality* approach in interpreting the religion clauses, an approach that looks further than the secular purposes of government action and examines the effect of these actions on religious exercise. ***Benevolent neutrality*** **recognizes the religious nature of the Filipino people and the elevating influence of religion in society; at the same time, it acknowledges that government must pursue its secular goals.** In pursuing these goals, however, government might adopt laws or actions of general applicability which inadvertently burden religious exercise. ***Benevolent neutrality*** **gives room for *accommodation* of these religious exercises as *required* by the Free Exercise Clause.** It allows these breaches in the wall of separation to uphold religious liberty, which after all is the integral purpose of the religion clauses. The case at bar involves this first type of *accommodation* where an exemption is sought from a law of general applicability that inadvertently burdens religious exercise.
>
> *Although our constitutional history and interpretation mandate benevolent neutrality, benevolent neutrality does not mean that the Court ought to grant exemptions every time a free exercise claim comes before it.* ***But it does mean that the Court will not look with hostility or act indifferently towards religious beliefs and practices and that it will strive to accommodate them when it can within flexible constitutional limits;*** *it does mean that the Court will not simply dismiss a claim under the Free Exercise Clause because the conduct in question offends a law or the orthodox view for this precisely is the protection afforded by the religion clauses of the Constitution, i.e., that in the absence of legislation granting exemption from a law of general applicability, the Court can carve out an exception when the religion clauses justify it.* While the Court cannot adopt a doctrinal formulation that can eliminate the difficult questions of judgment in determining the degree of burden on religious practice or importance of the state interest or the sufficiency of the means adopted by the state to pursue its interest, the Court can set a doctrine on the ideal towards which religious clause jurisprudence should be directed. *We here lay down the doctrine that in Philippine jurisdiction,*

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[54] 455 Phil. 411 (2003).

we adopt the benevolent neutrality approach not only because of its merits as discussed above, but more importantly, because our constitutional history and interpretation indubitably show that benevolent neutrality is the launching pad from which the Court should take off in interpreting religion clause cases*. The ideal towards which this approach is directed is the protection of religious liberty "not only for a minority, however small-not only for a majority, however large-but for each of us" to the greatest extent possible within flexible constitutional limits.*[55] (Emphasis ours)

Verily, where the Court has been asked to determine whether there has been an undue enchroachment of this Constitutionally forged "wall", this Court has adopted a stance of "benevolent neutrality". Rightfully so, for this incorporates the Constitutional principle of separation of the Church and the State while recognizing the people's right to express their belief or non-belief of a Supreme Being. This Court, applying the view of benevolent neutrality, declared that there was no violation of the non-establishment of religion clause in the recent case of *Re: Letter Of Tony Q. Valenciano*.[56]

Even in the U. S., whose jurisprudence are of persuasive weight in this jurisdiction, it can be gleaned that the religious nature of certain governmental acts does not automatically result in striking them as unconstitutional for violation of the non-establishment clause, particularly if the act involves constitutionally protected form of exercise of religious freedom.

The "Lemon test", which has been extensively applied by the U. S. Supreme Court in issues involving the determination of non-establishment of religion clause originated from the case of *Lemon vs. Kurtzman*.[57] In that case, the Court used a three-pronged test to adjudge whether the assailed governmental act violated the First Amendment, as follows:

1. The statute must have a secular legislative purpose;

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[55] *Id*. at 573-575.

[56] A.M. No. 10-4-19-SC, March 7, 2017, 819 SCRA 313.

[57] 403 U.S. 602 (1971).

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2. Its principal or primary effect must be one that neither advances nor inhibits religion; and,
3. The statute must not foster "an excessive government entanglement with religion."

In that case, the Court ruled that the state laws of Rhode Island and Pennsylvania providing financial aid and resources to teachers of parochial private schools, who will teach non-secular subjects to public schools is unconstitutional. This was because the effect of the law was to require the individual states to have continuous monitoring and surveillance of teacher-beneficiaries, in order to ensure that they would not espouse Catholic teachings in their classes. Such scenario, according to the Supreme Court, constitutes as an excessive entanglement of government in matters of religion. In that case, however, the U. S. High Court admitted that drawing the line between allowable and prohibited State acts delving on religion is not a matter of drawing conclusions from well-defined formula, to wit:

> Our prior holdings do not call for total separation between church and state; total separation is not possible in an absolute sense. Some relationship between government and religious organizations is inevitable. *Zorach v. Clauson*, 343 U.S. 306,343 U.S. 312 (1952); *Sherbert v. Verner*, 374 U. S. 398, 374 U.S. 422 (1963) (HARLAN, J., dissenting). Fire inspections, building and zoning regulations, and state requirements under compulsory school attendance laws are examples of necessary and permissible contacts. Indeed, under the statutory exemption before us in *Walz*, the State had a continuing burden to ascertain that the exempt property was, in fact, being used for religious worship. **Judicial caveats against entanglement must recognize that the line of separation, far from being a "wall," is a blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship.**
>
> This is not to suggest, however, that we are to engage in a legalistic minuet in which precise rules and forms must govern. **A true minuet is a matter of pure form and style, the observance of which is itself the substantive end.** Here we examine the form of the relationship for the light that it casts on the substance. (Emphasis ours)

Meanwhile, in upholding the use of a creche or Nativity scene in its annual Christmas display by the City of Pawtucket, Rhode Island, the U. S. Supreme Court, in *Lynch vs. Donnelly*,[58] explained that the separation of the Church and the State should not be viewed to mean absolute detachment of each other. The Court stated that:

> This Court has explained that the purpose of the Establishment and Free Exercise Clauses of the First Amendment is "to prevent, as far as possible, the intrusion of either [the church or the state] into the precincts of the other."
>
> x x x x x x x x x
>
> In every Establishment Clause case, **we must reconcile the inescapable tension between the objective of preventing unnecessary intrusion of either the church or the state upon the other, and the reality that, as the Court has so often noted, total separation of the two is not possible**.
>
> The Court has sometimes described the Religion Clauses as erecting a "wall" between church and state, see, e.g., *Everson v. Board of Education*, 330 U.S. 1, 330 U.S. 18 (1947). The concept of a "wall" of separation is a useful figure of speech probably deriving from views of Thomas Jefferson. The metaphor has served as a reminder that the Establishment Clause forbids an established church or anything approaching it But the metaphor itself is not a wholly accurate description of the practical aspects of the relationship that in fact exists between church and state.
>
> **No significant segment of our society, and no institution within it can exist in a vacuum or in total or absolute isolation from all the other parts, much less from government.** "It has never been thought either possible or desirable to enforce a regime of total separation. . . ." *Committee for Public Education & Religious Liberty v. Nyquist*, 413 U.S. 756, 413 U.S. 760 (1973). Nor does the Constitution require complete separation of church and state; it affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any. See, e.g., *Zorach v. Clauson*, 343 U.S. 306, 343 U.S. 314, 343 U.S. 315 (1952); *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203, 333 U.S., 211 (1948).

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[58] 465 U.S. 668 (1984).

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Anything less would require the "callous indifference" we have said was never intended by the Establishment Clause." xxx (Emphasis Ours)

The U. S. Supreme Court then went on to state how its history and tradition has allowed a healthy interaction between the State and religion, so long as the State does not commit acts that are solely motivated by religious considerations.

Another important lesson in *Lynch* was the Court's consideration of the context within which the government has issued a legislation or pursued an act. In that case, the Court found that the inclusion of the creche in the annual Christmas display was merely a recognition of the historical origins of the Christmas holiday.

Having in mind the above-stated rulings pertinent to the principle of non-establishment of religion clause, We proceed to scrutinize the INC commemorative stamp.

The printing of the INC commemorative stamp did not amount to a violation of the non-establishment of religion clause

There is no quibbling that as to the 50,000 stamps ordered, printed and issued to INC, the same did not violate the Constitutional prohibitions separating State matters from religion. Per paragraphs 5 and 6 of the MOA between PhilPost and INC provided that:

x x x x x x x x x

5. Upon signing of this Agreement, INC shall pay m cash or by manager's check an amount equivalent to fifty percent (50%) of the value of the stamps, first day covers and other philatelic products ordered to be purchased by INC, the fifty percent (50%) balance shall be paid upon approval of the final stamp design/s by the PPC Stamps Committee.

6. Unless the total cost of the stamps and other related products ordered by the INC is paid, PPC shall have the authority to hold the printing of the stamps and other philatelic products. Only upon payment of the full amount of the purchased stamps

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that the same shall be printed, delivered to INC, circulated and/or sold to collectors and the mailing public.

x x x x x x x x x[59]

It is plain, that the costs for the printing and issuance of the aforesaid 50,000 stamps were all paid for by INC. Any perceived use of government property, machines or otherwise, is *de minimis* and certainly do not amount to a sponsorship of a specific religion.

Also, We see no violation of the Constitutional prohibition on establishment of religion, insofar as the remaining 1,150,000 pieces of stamps printed and distributed by PhilPost.

First, there is no law mandating anyone to avail of the INC commemorative stamps, nor is there any law purporting to require anyone to adopt the INC's teachings. Arguably, while then President Aquino issued Proclamation No. 815, s. 2014, authorizing the issuance of the INC commemorative stamp, the same did not contain any legal mandate endorsing or requiring people to conform to the INC's teachings.

The secular purpose behind the printing of the INC commemorative stamp is obvious from the MOA between INC and Philpost:

MEMORANDUM OF AGREEMENT

x x x x

INC has requested PPC to issue, circulate and sell commemorative stamps and other philatelic products **to promote the Centennial of the Iglesia Ni Cristo**, and in honor of its First Executive Minister, Bro. Felix Y. Manalo; (Emphasis ours)

x x x x x x x x x[60]

The centennial celebration of the Iglesia ni Cristo, though arguably involves a religious institution, has a secular aspect.

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[59] Records, p. 89.

[60] *Id*. at 88.

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In the old case of *Garces, et al. vs. Hon. Estenzo, etc., et al.*,[61] the Court made a similar pronouncement as to a controversy involving the purchase of a barangay council of a statue of San Vicente Ferrer:

> **The wooden image was purchased in connection with the celebration of the barrio fiesta honoring the patron saint, San Vicente Ferrer, and not for the purpose of favoring any religion nor interfering with religious matters or the religious beliefs of the barrio residents.** One of the highlights of the fiesta was the mass. Consequently, the image of the patron saint had to be placed in the church when the mass was celebrated.If there is nothing unconstitutional or illegal in holding a fiesta and having a patron saint for the barrio, then any activity intended to facilitate the worship of the patron saint (such as the acquisition and display of his image) cannot be branded as illegal.
>
> As noted in the first resolution, the barrio fiesta **is a socio-religious affair. Its celebration is an ingrained tradition in rural communities. The fiesta relieves the monotony and drudgery of the lives of the masses.**
>
> The barangay council designated a layman as the custodian of the wooden image in order to forestall any suspicion that it is favoring the Catholic church. A more practical reason for that arrangement would be that the image, if placed in a layman's custody, could easily be made available to any family desiring to borrow the image in connection with prayers and novenas.[62] (Emphasis ours)

The printing of the INC commemorative stamp is no different. It is simply an acknowledgment of INC's existence for a hundred years. It does not necessarily equate to the State sponsoring the INC.

As to the use of the government's machinery in printing and distribution of the 1.2 million stamps, this Court does not find that the same amounted to sponsorship of INC as a religion considering that the same is no different from other stamps issued by PhilPost acknowledging persons and events of

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[61] 192 Phil. 36 (1981).

[62] *Id*. at 43-44.

significance to the country, such as those printed celebrating National Artists, past Philippine Presidents, and events of organizations, religious or not. We note that PhilPost has also issued stamps for the Catholic Church such as those featuring Heritage Churches,[63] 15th International Eucharistic Congress,[64] and Pope Francis.[65] In the past, the Bureau of Posts also printed stamps celebrating 300 years of Islam in the 1980s. Likewise, our review of the records does not disclose that PhilPost has exclusively or primarily used its resources to benefit INC, to the prejudice of other religions. Finally, other than this single transaction with INC, this Court did not find PhilPost to have been unneccesarily involved in INC's affairs.

Based on the foregoing, this Court is not convinced that PhilPost has actually used its resources to endorse, nor encourage Filipinos to join INC or observe the latter's doctrines. On the contrary, this Court agrees with respondents that the printing of the INC commemorative stamp was endeavored merely as part of PhilPost's ordinary business.

In the same vein, We do not find that there was illegal disbursement of funds under Section 29(2) of Article VI of the Constitution. The application of this prohibition towards government acts was already clarified by the Court in *Re: Letter of Tony Q. Valenciano, Holding Of Religious Rituals At The Hall Of Justice Building In Quezon City*:[66]

> Section 29 (2), Article VI of the 1987 Constitution provides, "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,

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[63] See https://www.phlpost.gov.ph/stamp-releases.php?id=3839. Visited September 14, 2018.

[64] https://www.phlpost.gov.ph/stamp-releases.php?id=3739.Visited September 14, 2018.

[65] https://www.phlpost.gov.ph/stamp-releases.php?page=30.Visited September 14, 2018.

[66] *Supra* note 56.

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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."

The word "apply" means "to use or employ for a particular purpose." "Appropriate" means "to prescribe a particular use for particular moneys or to designate or destine a fund or property for a distinct use, or for the payment of a particular demand."

Under the principle of *noscitur a sociis*, where a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its correct construction may be made clear and specific by considering the company of words in which it is found with or with which it is associated. This is because a word or phrase in a statute is always used in association with other words or phrases, and its meaning may, thus, be modified or restricted by the latter. The particular words, clauses and phrases should not be studied as detached and isolated expressions, but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible.

Thus, the words "pay" and "employ" should be understood to mean that **what is prohibited is the use of public money or property for the sole purpose of benefiting or supporting any church**. The prohibition contemplates a scenario where the appropriation is primarily intended for the furtherance of a particular church.

It has also been held that the aforecited constitutional provision "**does not inhibit the use of public property for religious purposes when the religious character of such use is merely incidental to a temporary use which is available indiscriminately to the public in general**." Hence, a public street may be used for a religious procession even as it is available for a civic parade, in the same way that a public plaza is not barred to a religious rally if it may also be used for a political assemblage.

In relation thereto, the phrase "directly or indirectly" refers to the manner of appropriation of public money or property, not as to whether a particular act involves a direct or a mere incidental benefit to any church. Otherwise, the framers of the Constitution would have placed it before "use, benefit or support" to describe the same. Even the exception to the same provision bolsters this interpretation. The

exception contemplates a situation wherein public funds are paid to a priest, preacher, minister, or other religious teacher, or dignitary because they rendered service in the armed forces, or to any penal institution, or government orphanage or leprosarium. That a priest belongs to a particular church and the latter may have benefited from the money he received is of no moment, for the purpose of the payment of public funds is merely to compensate the priest for services rendered and for which other persons, who will perform the same services will also be compensated in the same manner.

Ut magis valeat quam pereat. The Constitution is to be interpreted as a whole. As such, the foregoing interpretation finds support in the Establishment Clause, which is as clear as daylight in stating that what is proscribed is the passage of any law which tends to establish a religion, not merely to accommodate the free exercise thereof.[67]

Indeed, what is prohibited is the State using its resources to solely benefit one religion. As stated above, the records do not show that the State has been using the resources and manpower of PhilPost for INC's sole advantage. On the contrary, the stamps printed and issued by PhilPost, as seen through its website, feature various entities and organizations, other than religious sects.

The design of the INC commemorative stamp is merely an acknowledgment of the historical and cultural contribution of INC to the Philippine society

Adopting the stance of benevolent neutrality, this Court deems the design of the INC commemorative stamp constitutionally permissible. As correctly held by the CA, there is an intrinsic historical value in the fact that Felix Y Manalo is a Filipino and that the INC is a Filipino institution. It explained, thus:

xxx Both matters, "culture" and "national development," are secular in character. Further, it cannot be denied that the part of the late Felix Y. Manalo's cultural and historical contribution is his founding of the INC. This circumstance, however, does not immediately put

[67] *Id*. at 356-358.

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it in a religious light if it is only the historical fact of establishment which is being mentioned, *i.e.*, adding nothing more and without regard to its doctrine and teachings.

After arguing that the INC does not contribute to national development because it does not pay taxes, (petitioner) Peralta now wants this Court to enumerate INC's contributions to national development. This matter has already been determined by the President of the Philippines, Congress, and the National Historical Commission. It is not for this Court to question the wisdom of these executive and legislative issuances nor supplant the same. The task of this Court is to resolve whether the printing of the stamps is constitutional in light of these executive and legislative determinations.

To reiterate, in the same manner that public property is allowed to be used temporarily by different religions like roads or parks, the philatelic services and products offered by (respondent) PhilPost for valuable consideration, can be availed of not only by the INC but by other people or organizations as well. For the above-stated reasons, this Court maintains its finding that the printing and issuance of the INC Centennial stamps did not contravene Section 29 (2), Article VI of the 1987 Constitution. Besides, (petitioner's) cause of action, which is injunction, necessarily fails as there is nothing more to restrain or enjoin.[68]

Thus, this Court sees no religious overtones surrounding the commemorative stamps, as insisted upon by the petitioner.

In the case of *Aglipay*,[69] the issuance and sale of postage stamps commemorating the Thirty-third International Eucharistic Congress was assailed on the ground that it violated the constitutional prohibition against the appropriation of public money or property for the benefit of any church. In ruling that there was no such violation, the Court, through Justice Jose P. Laurel, held that:

xxx It is obvious that while the issuance and sale of the stamps in question may be said to be inseparably linked with an event of a religious character, the resulting propaganda, if any, received by the

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[68] *Rollo*, pp. 17-18.

[69] *Supra* note 17, *id*. at 209-210.

Roman Catholic Church, was not the aim and purpose of the Government. We are of the opinion that the Government should not be embarrassed in its activities simply because of incidental results, more or less religious in character, if the purpose had in view is one which could legitimately be undertaken by appropriate legislation. **The main purpose should not be frustrated by its subordination to mere incidental results not contemplated.** (*Vide Bradfield vs. Roberts*, 175 U.S., 295; 20 Sup. Ct. Rep., 121; 44 Law. ed., 168.).[Emphasis Supplied.]

Indeed, the design depicted in the INC commemorative stamp is merely a recognition of the continuous existence of a group that is strictly Filipino. As compared to major religious groups established in the country, Felix Y. Manalo, and the INC, are not plain religious symbols, but also a representation of a group that is distinctly unique to the Philippines. To the mind of this Court, the use of the facade of the Church and the image of Felix Y. Manalo is nothing more than an acknowledgment of a historical milestone. It does not endorse, establish or disparage other religious groups and even non-believers, especially considering the fact that PhilPost also print stamps with symbols which can arguably be connected to religion. In the case of *Manosca vs. Court of Appeals*,[70] this Court has already recognized Manalo's contribution to the Filipino society:

Petitioners ask: But "(w)hat is the so-called unusual interest that the expropriation of (Felix Manalo's) birthplace become so vital as to be a public use appropriate for the exercise of the power of eminent domain" when only members of the *Iglesia ni Cristo* would benefit? This attempt to give some religious perspective to the case deserves little consideration, for what should be significant is the principal objective of, not the casual consequences that might follow from, the exercise of the power. The purpose in setting up the marker is **essentially to recognize the distinctive contribution of the late Felix Manalo to the culture of the Philippines, rather than to commemorate his founding and leadership of the *Iglesia ni Cristo***. The practical reality that greater benefit may be derived by members of the *Iglesia ni Cristo* than by most others could well be true but such a peculiar advantage still remains to be merely incidental and

[70] *Supra* note 21, *id*. at 453.

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secondary in nature. Indeed, that only a few would actually benefit from the expropriation of property does not necessarily diminish the essence and character of public use. (Emphasis ours)

To debunk petitioner's claim that Section 29, Article VI of the 1987 Constitution[71] was violated, We agree with PhilPost's view that:

> xxx the printing and issuance of the assailed commemorative stamps were not inspired by any sectarian denomination. The stamps were neither for the benefit of INC, nor money derived from their sale inured to its benefit. xxx the stamps delivered to INC were not free of charge and whatever income derived from the sale to INC and of the excess to the postal clients were not given to INC, but went to the coffers of PhilPost.[72]

All told, therefore, the Court finds no reason or basis to grant the petition. In refusing to declare unconstitutional the INC's commemorative stamp, this Court is merely applying jurisprudentially sanctioned policy of benevolent neutrality. To end, it bears to emphasize that the Constitution establishes separation of the Church and the State, and not separation of religion and state.[73]

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[71] **Section 29.** I. No money shall be paid out of the Treasury except in pursuance of an appropriation made by law. 2. 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, 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. 3. All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

[72] *Rollo*, p. 38.

[73] See *Protestants and Other Americans United For Separation Of Church And State vs. Lawrence F. O'BRIEN, Postmaster General of the United States*, 272 F. Supp. 712 (1967)

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WHEREFORE, We **DENY** the petition. We **AFFIRM** the July 24, 2015 Decision, as well as the March 8, 2016 Resolution, of the Court of Appeals, in CA-G.R. CV No. 103151.

SO ORDERED.

Bersamin, C.J., Carpio, Peralta, del Castillo, Perlas-Bernabe, Jardeleza, Caguioa, Reyes, Jr., A., Gesmundo, Reyes, Jr., J., and *Hernando, JJ.*, concur.

Leonen, J., dissents, see dissenting Opinion.

Carandang, J., on leave.

DISSENTING OPINION

LEONEN, *J.*:

I dissent.

Enshrined as a major principle is the inviolabilty of separation of church and State. Thus, in Article II, Section 6 of the Constitution:

ARTICLE II
DECLARATION OF PRINCIPLES AND STATE POLICIES

PRINCIPLES

. . . . . .

Section 6. The separation of Church and State shall be inviolable.

This inviolability is without qualification. The provision requires fealty to a strict reading. It should mean that the use of State resources to incidentally support a religion must be inevitable and unavoidable.

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I

An image[1] of the assailed centennial stamp is reproduced below:



According to petitioner Peralta, the issuance of the Iglesia ni Cristo stamps is "purely religious"[2] mainly because their design "commemorates the 100th year founding of [Felix Y. Manalo] of [Iglesia Ni Cristo], his leadership as First Executive Minister and with the [Iglesia Ni Cristo] Central Temple and Central Logo[.]"[3] As such, their issuance and distribution are allegedly violative of the non-establishment clause and of Article VI, Section 29(2) of the Constitution prohibiting the employment of public money or property for the benefit of any religion.

The non-establishment clause is found in Article III, Section 5 of the Constitution, thus:

Section 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship,

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[1] <https://www.phlpost.gov.ph/images/stamps/phlpost_stamp_2014515_1813785396.jpg> Last accessed on December 3, 2018.

[2] *Rollo*, p. 7.

[3] *Id*.

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without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

Based on this provision, the State has two (2) fundamental duties: to respect the free exercise of any religious faith; and to not establish, endorse, or favor any religion.[4] In my dissent in *Re: Letter of Tony Q. Valenciano*,[5] I stated:

> There is no duration, degree of convenience, or extent of following that justifies any express or implied endorsement of any religious message or practice. There is also no type of endorsement allowed by the provision. It is sufficient that the State, through its agents, favors expressly or impliedly a religious practice.[6]

The non-establishment clause recognizes the cultural power of the State. In my dissent in *Re: Letter of Tony Q. Valenciano*, I explained that:

> Congealed in this provision is the concept that the Constitution acknowledges the cultural power of the State. Government's resources, its reach, and ubiquity easily affect public consciousness. For example, actions of public officials are regular subjects of media in all its forms. The statements and actions of public officials easily pervade public deliberation. They also constitute frames for public debate on either personality or policy.
>
> The rituals and symbolisms of government not only educate the public but also etch civic and constitutional values into mainstream culture. The flag for instance, reminds us of our colorful history. Flag ceremonies instill passionate loyalty to the republic and the values for which it stands. Halls of Justice consist of buildings to remind the public that their cases are given equal importance. The

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[4] *See J.* Leonen, Dissenting Opinion in *Re: Letter of Tony Q. Valenciano*, A.M. No. 10-4-19-SC, March 7, 2017, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/10-4-19-SC_leonen.pdf> 10 [Per *J.* Mendoza, *En Banc*].

[5] A.M. No. 10-4-19-SC, March 7, 2017 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/10-4-19-SC.pdf> [Per *J.* Mendoza, *En Banc*].

[6] *Id.* at 15.

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arrangement of bench and bar within our courtrooms exhibits the majesty of the law by allowing the judicial occupants to tower over the advocates to a cause. This arrangement instills the civic value that no one's cause will be above the law: that no matter one's creed or belief, all will be equal.

Any unnecessary endorsement, policy, or program that privileges, favors, endorses, or supports a religious practice or belief per se therefore would be constitutionally impermissible. It communicates a policy that contrary beliefs are not so privileged, not so favored, not so endorsed and unsupported by the Constitutional order. It implies that those whose creeds or whose faiths are different may not be as part of the political community as the other citizens who understand the rituals that are supported. It is to install discrimination against minority faiths or even against those who do not have any faith whatsoever.[7]

Relatedly, Article VI, Section 29(2) of the Constitution prohibits the appropriation or employment of public money or property for the use, benefit, or support of any religion:

Section 29.

. . . . . .

(2) 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.

The text of Article VI, Section 29(2) allows for no qualification. As I had previously remarked in my dissent in *Re: Letter of Tony Q. Valenciano*:

Section 29 (2), Article VI of the Constitution is straightforward and needs no statutory construction. The religious use of public property is proscribed in its totality. This proscription applies to *any* religion. This is especially so if the accommodation for the use

[7] *Id.* at 14.

of public property is principally, primarily, and exclusively only for a religious purpose.[8] (Emphasis in the original)

It is true that this Court has recognized one instance when governmental action may be inextricably linked with an event that is religious in character. In the old case of *Aglipay v. Ruiz*,[9] this Court allowed the "incidental endorsement" of a religion so long as the challenged act has a secular purpose.

Gregorio Aglipay, then Supreme Head of the Philippine Independent Church, sought to enjoin the issuance and sale of commemorative stamps of the 33rd International Eucharistic Congress of the Roman Catholic Church. He contended that the design and the very issuance of the stamps violated the separation of church and State as well as the constitutional prohibition on the appropriation of public money for the benefit of any religion. The design of the stamp assailed in *Aglipay* contained a map of the Philippines and the location of the City of Manila, with the inscription "Seat XXXIII International Eucharistic Congress, Feb. 3–7, 1937."[10]

This Court dismissed the Petition, allowing the sale and distribution of the stamps. In so ruling, the Court observed that the primary purpose for the issuance of the stamps was secular. The stamps were designed in such a way that Manila was emphasized as the seat of the 33rd International Eucharistic Congress. Thus, while the event was "religious in character,"[11] the distribution of the stamps was nevertheless allowed because the main purpose for their sale and issuance was "to advertise the Philippines and attract more tourists to this country."[12] Through Justice Laurel, this Court said:

In the present case, however, the issuance of the postage stamps in question by the Director of Posts and the Secretary of Public Works

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[8] *Id*. at 18.

[9] 64 Phil. 201 (1937) [Per *J*. Laurel, *En Banc*].

[10] *Id*. at 209.

[11] *Id*.

[12] *Id*.

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and Communications was not inspired by any sectarian feeling to favor a particular church or religious denominations. The stamps were not issued and sold for the benefit of the Roman Catholic Church. Nor were money derived from the sale of the stamps given to that church. On the contrary, it appears from the letter of the Director of Posts of June 5, 1936, incorporated on page 2 of the petitioner's complaint, that the only purpose in issuing and selling the stamps was "to advertise the Philippines and attract more tourists to this country." The officials concerned merely took advantage of an event considered of international importance "to give publicity to the Philippines and its people" (Letter of the Undersecretary of Public Works and Communications [to] the President of the Philippines, June 9, 1936; p. 3, petitioner's complaint). It is significant to note that the stamps as actually designed and printed (Exhibit 2), instead of showing a Catholic Church chalice as originally planned, contains a map of the Philippines and the location of the City of Manila, and an inscription as follows: "Seat XXXIII International Eucharistic Congress, Feb. 3-7, 1937." What is emphasized is not the Eucharistic Congress itself but Manila, the capital of the Philippines, as the *seat* of that congress. It is obvious that while the issuance and sale of the stamps in question may be said to be inseparably linked with an event of a religious character, the resulting propaganda, if any, received by the Roman Catholic Church, was not the aim and purpose of the Government. We are of the opinion that the Government should not be embarrassed in its activities simply because of incidental results, more or less religious in character, if the purpose had in view is one which could legitimately be undertaken by appropriate legislation. The main purpose should not be frustrated by its subordination to mere incidental results not contemplated.[13] (Citations omitted)

Identifying the secular purpose in an image and projecting its dominance are not enough. This mode of analysis invites courts to use their subjectivities in deciding how to look at an image. In a country with a dominant religion, this spells disaster for those whose faiths are not in the majority. It will also further marginalize those whose spiritual beliefs are not theistic, e.g. Buddhists, or those who are agnostic or atheistic.

Iglesia ni Cristo's ability to fund the printing of the centennial stamps attests to its cultural dominance. It also reveals that it

[13] *Id*. at 209-210.

has the resources to mark its own anniversary through means other than the use of government facilities. Therefore, the government's issuance of stamps in its favor has no other purpose other than to favor its dominant religious teachings disguised through its anniversary.

Our reading of the non-establishment clause should not be as superficial. Dominant religions may command their faithful to vote as a block for certain political candidates. In doing so, they can slowly erode the separation of church and State, sacrificing genuine sovereignty among our people. Therefore, the sponsorship of any faith through a commemorative stamp unwittingly furthers proselytization.

Aglipay and the proposed decision record the pliability of our State to major religious denominations. In the guise of looking for the dominant secular purpose or benevolent neutrality,[14] current doctrine may only be favoring these religions.

Furthermore, it is not clear as to who decides that a particular religion is officially part of government history. In lieu of subjectivity, we must return to the Constitution in Article II, Section 6: the separation of church and State shall be inviolable. Should there be a link between governmental action and religion, the burden is on the government to show that the link is inevitable and unavoidable.

Our Bill of Rights protects those who do not count themselves as part of the dominant religious faiths. Their beliefs, though fervent, may not translate to huge resources allowing them to influence politics and the use of the State's resources. Yet, it is for them that the assurance of separation of church and state has been made.

Reifying faith in *Aglipay* does the exact opposite. Unfortunately, I dissent on these findings.

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[14] *See Estrada v. Escritor*, 455 Phil. 411 (2003) [Per *J*. Puno, *En Banc*].

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II

The Philippine Postal Corporation, in its Comment, maintains that "religion and politics are inextricably linked[.]"[15] As basis, it again cites *Aglipay*, decided during the effectivity of the 1935 Constitution, where the Filipino people in the preamble implored the aid of Divine Providence. The present Constitution, according to the preamble, was ordained and promulgated with the aid of Almighty God.[16]

In my view, the preamble should not be a basis to raise the possibility of faiths which are not theistic. The epilogue of my dissent in *Re: Letter of Tony Q. Valenciano* remains relevant here. The faiths which anchor our Constitution are diverse. It should not be the monopoly of any sect. The diversity mandated by our Constitution deepens our potentials as sovereigns. Therefore, to favor a belief system in a divine being, in any shape, form, or manner, is to undermine the very foundations of our legal order.

IN VIEW OF THE FOREGOING, I vote to **GRANT** the Petition for Review on Certiorari. The printing and issuance of the Iglesia ni Cristo commemorative stamps should be declared **UNCONSTITUTIONAL**.

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[15] *Rollo,* p. 29.

[16] The Preamble of the Constitution provides:

PREAMBLE

We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our posterity the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.