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Understanding the Religious Rights of the Muslims in the Philippines: A Catalyst for Peace and Justice

Kefahaman tentang Hak Beragama Orang Islam di Filipina: Pemangkin untuk Keamanan dan Keadilan

Mariam Saidona Tagoranao* & Alizaman D. Gamon**

Abstract

Religious rights for minorities are not merely a privilege policy but an important commitment that should be acknowledged by any organization, state or nation. The contemporary legal systems of the world recognize religious rights particularly in today's multicultural societies. This system has been acknowledged by the international law of human rights and the United Nations Conventions. Religious faith and religious practices are inherently protected by the Constitution of the Republic of Philippines. International law of human rights becomes the basis for a non-Muslim government to provide commitments in promoting spiritual and conventional infrastructures for Muslim minorities. The main objective of this paper is to discuss the national laws that can accommodate Muslim religious rights based on how Islam defines it, in order to achieve a lasting peace in the Philippines. The paper recommends that the universal principle of peace must be contained in the legal reform of every sovereign nation. In addition, religious obligations and liberties must be fairly treated and regarded as a national agenda towards promoting peace and justice.

Keywords: Religious rights, Muslim minorities, Philippine Constitution, Peace and Justice.

Abstrak

Hak keagamaan untuk golongan minoriti bukan sekedar dasar keistimewaan semata, tetapi merupakan suatu komitmen penting yang harus diakui oleh mana-mana organisasi, negara atau bangsa. Sistem undang-undang kontemporari di dunia mengikti-

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raf hak beragama, khususnya dalam masyarakat pelbagai budaya hari ini. Ia telah diakui oleh undang-undang hak asasi manusia antarabangsa dan Konvensyen Pertubuhan Bangsa-Bangsa Bersatu. Kepercayaan dan amalan keagamaan pada dasarnya dilindungi oleh perlembagaan negara. Undang-undang ini menjadi asas bagi sebuah kerajaan bukan Islam untuk memberikan komitmen dan keprihatinan dalam mempromosikan infrastruktur rohani dan konvensional bagi golongan minoriti Muslim. Objektif utama kajian ini adalah untuk mengetahui sejauh mana undang-undang negara boleh menampung hak agama Islam berdasarkan bagaimana Islam mentakrifkannya, untuk mencapai keamanan yang kekal di Filipina. Keadaan menjadi amat malang apabila makna sebenar perdamaian akhirnya terhakis akibat penyelewengan yang lazimnya berlaku dalam sistem dan amalan perundangan. Walau bagaimanapun disyorkan, bahawa prinsip sejagat kedamaian mesti terkandung dalam reformasi undang-undang bagi setiap negara berdaulat. Di samping itu, kewajipan dan kebebasan beragama mesti dilayan dengan adil dan dianggap sebagai agenda nasional untuk mempromosikan keamanan dan keadilan.

Kata Kunci: Hak keagamaan, minoriti Islam, Perlembagaan Filipina, Keamanan dan Keadilan.

Introduction

Islam in the Philippines was introduced by Arab missionaries and Chinese traders during the Golden Age of Islam in China (1368-1648 EC). It happened during the time when Chinese ships started their voyage directly from China to Luzon (the biggest island of the Philippines) and then would go south to Mindoro or the Calamianes Islands and enter the Sulu Sea from the north.¹ This was the Chinese traders' route that passed through the Sulu Archipelago, Basilan and the southern coast of Mindanao. The Sulu Islands was one of the trade centres to which Arab, Chinese and Indian traders came. The religious activities of the traders were significant in many ways, especially in introducing the Islamic culture and values that attracted the local people to learn and to practice them. The traders' contribution to Islamization in the Philippines was undeniably significant for the socio-cultural transformation of the Muslim communities in Mindanao and the Sulu Islands. The missionary work of the traders was followed by the close relationship between the Sultan of Sulu and the Chinese Emperor in 1417 that signified close political relations and cooperation between them. Islamic law was integrated into the customary, or *adat*, laws of the local people. It became a dynamic force in the reformation of people's culture, an awakening to new religious consciousness and other matters including social, political and economic de-

¹ Roderick PTAK, "The northern Trade route to the Spice Islands: South China Sea-Sulu Zone-north Moluccas (14th to early 16th century)" *Archipel* (Paris: Centre national de la recherche scientifique, 1992). Vol. 43., 27-56.

velopment. People were able to learn that Islam was not separate from the political governance of the state. Muslims were able to establish their identity, especially among the countries within the South China Sea. Historians emphasise the importance and the domineering nature of religion in the society. For ages, religion has always been relevant for socio-cultural recognition and economic development of Muslim minorities in the Philippines. The vital role of Islam in the Muslim society has been ignored and neglected by the Filipino non-Muslim lawmakers due to global ignorance of Islam as a complete way of life. Islam has been misunderstood as there are only a few original literary sources that exist on the historical origin of Muslim religious activities in the Philippines. These Islamic books and manuscripts cannot be easily located in government or private educational institutions. The history of Islam and the Muslims was distorted and not properly illustrated in the books written by Filipino Christian historians. At another extreme, there are public institutions where students are not allowed to practice Islam and wear Islamic attire. There are private educational institutions that prohibit students to display their faith in public out of fear that it would be against the law. In fact, Islamic social institutions, such as *waqf*, *sadaqa*, *zakat* and *bait-ul-maal* are not recognized as part of the government institutions. This shows that Muslims are marginalized in economic and educational spheres as well as in leadership and decision-making.

This research paper aims at understanding the issues concerning the religious rights of Muslim minorities and their implication for a sustainable peace and development in the South China Sea. Islam differs from other religions because it sustains its intellectual and political aspects despite the overwhelming challenges posed by the advent of modern science. Religion was recognised by the United Nations as a partnership in achieving Sustainable Development Goals (SDGs). In line with this, interfaith dialogue and peacebuilding have been encouraged among different groups. Interfaith programs have been initiated in the Philippines since the early 1980s to improve the relationship between the majority Christian populations and the Muslim minorities. It helps to facilitate an event for cultural and sustainable peace and development. In recent cases, interfaith dialogue has been enhanced among the ASEAN members and the East Asian community as a counter-narrative for ten-

sions, misunderstanding and regional security. In Hong Kong,² the issue of respect and tolerance is regarded as an important mechanism in improving mutual understanding and cooperation to contain issues related to differences in services, prayer and donations.³

Muslims in the Philippines

Islam is the second largest religion in the Philippine with approximate total population of 15% contrary to less than 10% that had been reported by the Philippine Statistic Authority.⁴ There are thirteen ethnolinguistic groups of Muslims in the Philippines, each of which are scattered in the islands of Mindanao, Sulu, Basilan, Tawi-Tawi and Palawan. The three major groups are the Maguindanaons of Western and Southwestern Mindanao, the Maranaos or Malays who are lake dwellers around Lake Lanao and the Tausog in Jolo and Tawi-Tawi. The small groups are the Sangil of Sarangani Island, the Iranun along the coasts of Illana Bay in the Moro Gulf, the Sama and Badjao of Sulu and Zamboanga, the Yakan of Basilan, the Yama Mapun of Cagayan de Sulu, Melebuanon of Balabac, Kalibugans from Zamboanga del Sur and the Kalagans from Davao provinces and on the shores of Davao Gulf. There are also Muslim Filipinos in Visayas and Luzon, some of whom are newly converted to Islam. All these Muslims have their own respective customary laws, compiled separately and independently from the others, although, some are very much influenced by Islamic laws.

Muslim Filipinos are not only united among themselves but they also have a unity with their Muslim brothers and sisters abroad.⁵ As observed by a Christian Filipino writer, “from the standpoint of religious affinity, the Muslims of the Philippines have a colder identification with the population of Malaysia and Indonesia than with the Christian Filipi-

² In 2013, the Colloquium of Six Religious Leaders of Hong Kong signed a cooperation agreement. While in 2015, Muslim and Jewish leaders tried to understand each other for the sake of interfaith cooperation.

³ Wai-Yip Ho, *Islam and China's Hong Kong: Ethnic Identity, Muslim Networks and the New Silk Road* (Oxon: Routledge, 2013).

⁴ The Muslim World League Journal, vol. 3. Press Publication Department, Muslim World League, 2005.

⁵ M.S.Tagoranao, “Strengthening the Religious Freedom for Muslim Minorities: Issues and Challenges”, *The Proceeding of the Conference in Dakwah and Islamic Management, held at the University Sains Islam Malaysia, Negeri Sembilan on May 20-21, 2014*.

nos of Luzon and the Visayas.”⁶ Although they claimed to be of the same part with the majority, most of them remained outside the mainstream national life, set apart by their religious way of life. Traditionally, Muslims have never been close or even allied themselves to other Filipino groups.

The Philippine Constitutions and the Muslim Religious Rights

Before the Philippines was declared as an independent nation, the Muslims populace had an advanced system of laws. These laws were dubbed as the “Moro jurisprudence” because it was based on the Luwaran Code of Maguindanao and the Diwan Tausog of Sulu.⁷ The Islamic government system had been already established in the Muslim communities in Mindanao and Sulu Island. After the colonisation, the Muslim culture, beliefs, laws, and customs remained and were unaffected by the colonial laws and decrees. During the American regime from 1898 to 1946, several treaties were signed, by which the United States recognized the sultanate form of government and Muslim domestic affairs regulated by Islamic law, which was modified by customary laws prevailing among the different tribes. However, those treaties were abrogated in 1904 because it was found to be against the Americans basic policy declared by then US President William McKinley that “the Philippines are not ours to exploit, but to develop, to civilize, to educate and to train in the science of self-government.”⁸

Before the Philippines became fully independent, the Tydings-McDuffie Law, otherwise known as the Philippine Independence Act, was enacted by the United States Congress, authorising the Philippine Legislature to call a constitutional convention to draft a constitution for the Philippines.⁹ During the Constitutional Convention for the drafting and framing of the 1935 Constitution, the Muslim communities were rep-

⁶ Antonio Isidro, “Education of the Muslim”, *Solidarity*, vol. 4, (March, 1969), pp. 8-12.

⁷ The Luwaran Code of Maguindanao was written in 1886. The Code adheres basically to the teaching of the Shafi'i School of Law which is quite popular in other parts of the Malay lands. While the Diwan Tausog was promulgated as the principal personal law codex of Sulu under the suzerain authority of the Sultan of Sulu. It was officially recognized as a Code in 1878. The contents of the Diwan Tausog includes sexual offences and law concerning theft, abduction, false claims and murder.

⁸ Peter G. Gowing, *Mandate in Moroland*, (Quezon City: New Day Publisher, 1983), p. 15.

⁹ Hector S. De Leon, *Textbook on the Philippine Constitution* (Manila: Rex Bookstore, Inc., 2005), p. 23.

resented by only one delegate, the former Senator Sultan Alauwiya Alonto. It shows that the provisions in the Constitution were dominated by the US legal principles for the purpose of getting the approval of the US President. The US approval was very important for the intended transition of Philippine independence. However, the issue of Philippines independence was only the great national idea of the Christian Filipinos. The majority of Muslims considered independence as insignificant so they refused to be governed by non-Muslim Filipinos. They preferred to be within the jurisdiction and protection of the US government. The negative responses were based on the absence of full respect for Muslim rights under the 1935 Constitution. Their social and legal traditions were ignored and disregarded and replaced by secular laws. George Arthur Malcom, who authored the book *The Commonwealth of the Philippines*, observes that “the Commonwealth constitution which gave the Philippines its first state of freedom made various provisions for the welfare of the Christian majority, but paid no attention to the requirements of Muslims.”¹⁰ Muslims opposed the incorporation of Mindanao and Sulu to the new Republic of the Philippines. Muslim leaders appealed to the US Congress, in which they emphasized that in an independent Philippine nation Muslims would not be allowed to participate in administration nor to share in economic gains, and Islam may not be respected and acknowledged by a Filipino government.¹¹ With the support of some Americans, the appeal was presented before the US Congress through the Bacon Bill. However, it was scrapped in order to maintain an undivided country and to preserve the Americans’ economic interests in the Philippines. Muslims’ goal and aspiration to live in their own separate state was not granted and it was sacrificed for the sake of keeping the Americans’ ambitiousness and desire for power over the Republic.

The 1935 Constitution was drafted and framed without showing any concern for the traditions and religious rights of Muslims. This is based on the lawmakers’ ignorance that Islam is not just a religion but it embraces all aspects of human life. Article III, Section 1(9) clearly provides that there is no law granting a title of nobility that shall be enacted. This provision limits the growth of the Islamic governance as it was known to the Muslims in Mindanao and Sulu, and stifles any recourse in

¹⁰ T.J.S. George, *Revolt in Mindanao* (London: Oxford University Press, 1980), p. 83.

¹¹ Cesar A. Majul, *The Contemporary Muslim Movement in the Philippines* (USA: Bookbaby, 2015).

the future to sultanate sovereignty and independence.¹² The separation between religion and the state as practiced in US has been adopted by the 1973 Constitution which provides that “the separation of church and state shall be inviolable.”¹³ It is a Western doctrine based on the phrase, “building a wall of separation between church and state.” It is a political and legal concept where government and religion should be separated and not interfere in each other's affairs. This principle is implied from the constitutional prohibitions that “no law shall be made respecting an establishment of religion.”¹⁴ The Philippine lawmakers were unaware or indifferent to the fact that there is no separation between religion and state in Islam. The problem is, what does the word “religion” mean under the Constitution? Mohshin Reza, for instance, asks, “Does it subsume the spiritual and social aspect of Islam? Does it, in the analysis, recognize Islam as a complete way of life?”¹⁵ The lawmakers failed to understand that Islam is not only a set of rituals for personal piety but also covers every system of human life. Observers of Islam may attest to the fact that “Islam covers every field of law, public and private, national and international together with an enormous amount of material that we in the West would not regard as law at all.”¹⁶ Muslim culture is intertwined with Islam and, therefore, upholds the indivisibility of the state and religion. Such lack of understanding about Islam can be traced back to the West's presumption that Muslims have no laws but simply a few customs which are nowhere in general.¹⁷ It validates their mission to Christianise Muslims or to impose Western laws to the Muslim Filipino communities.

The Philippine legislators continued to retain the Free Exercise Clause in the 1935 Constitution up to the 1987 Constitution. The clause provides that “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 sys-

¹² Abdulhusin M. Kashim “The media and the Marginalization of the Minority: The Case of the Philippine Muslims” *Hans Köchler: Bibliography and Reader*, ed. Fatemah Remedios C. Balbin (Austria: AG Wissenschaft und Politik, 2007), p. 138.

¹³ Article XV, Section 15. Philippine Constitution.

¹⁴ Article III, Section 5. Philippine Constitution

¹⁵ Abdul Husyn Kazeem, *The Muslims in the Philippines: A Case of Conflict Ideology*, *Mindanao Islamic Journal*, Volume 2, Number 1, Jan.-Dec. 1989, p. 123.

¹⁶ J.N.D. Anderson, *Islamic Law in the Modern World*. (Connecticut: Greenwood press, 1959), p. 4.

¹⁷ Peter Gowing, *Muslim Filipinos: Heritage and Horizon*, 1979 (Quezon City: New Day Publishers), pp. 36-37.

tem of religion.”¹⁸ This provision and other related laws on religion make it appear that the state will safeguard the religion of Islam only as a spiritual dogma. Freedom to practice religion is clearly sanctioned by the Philippine Constitution and the United Nation’s Assembly. The Universal Declaration of Human Rights (UDHR) provides that “everyone has the freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.”¹⁹ However, Islam has a wider scope because it has a comprehensive meaning. Religious rights are not an easy subject to address, with their gray areas on issues, without disagreement and confusion. The Constitution sheds some light on the burden in developing Islamic social institutions, especially the *waqf*, *zakat*, and *bait-ul-maal* which are important to Muslims’ poverty reduction.

Impact of Separation Clause on Muslim Minorities Development

The doctrine of separation between religion and state is one of the legal structures that marginalised Muslims’ quest for political, economic and social development. Non-Muslim legislators used to believe and comprehend Islam as a religion only. This shows clear influence from the social scientists in the West who have claimed that Islam (as a religion) is an obstacle to development.²⁰ Ignorance of the real meaning of Islam can be summed up from Max Weber’s statement that Islam “lacked the requirement of a comprehensive knowledge of the law and lacked the intellectual training in casuistry which nurtured the rationalism of Judaism.”²¹ They failed to further study and investigate the wide scope of Islam by just comparing it with other religions. In fact, a demand for the codification of religious and customary laws was set aside as nothing had been found worthy to be humane and descent for implementation. These

¹⁸ Article 6, Section. 29(2). Philippine Constitution.

¹⁹ Article 18 of the Universal Declaration of Human Rights.

<http://www.un.org/en/universal-declaration-human-rights/>. (Accessed on May 2, 2018).

²⁰ Yusuf Ziya Ozcan, “Is Islam an Obstacle to Development? Evidence to the Contrary and Some Methodological Considerations,” *Intellectual Discourse*, 1995 Vol 3, No 1, pp. 1-22. (Accessed on June 8, 2018) pdf.

²¹ Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, Volume 1, 1978 (Berkeley: University of California Press), p. 626.

biases attest to the incorrect understanding of and respect for the rights of the Muslim minorities.

The separation clause affected the development of the Islamic social-financial institutions for Muslim minorities. In fact, *zakat*, *waqf*, and *sadaqah* as well as the *halal* industry cannot be fully developed without government support and protection. In the case of *waqf*,²² religious and non-religious organizations have been receiving *waqf* properties (mostly in cash and lands) from local and international organisations or individuals as a trust, but in some cases the objectives are not fully implemented. The *waqf* properties have been misused and mismanaged in the absence of legal protections and lack of understanding the characteristics of the *waqf* institution. Some of the ancestral land in Mindanao is part of *waqf* properties but, unfortunately, most of them have never been expressly declared and registered by the *waqif* or *mutawalli*. Some were illegally claimed and appropriated by the government for its own interest. As an instance, some Muslim ancestral lands became a “land of promise” to Christians Filipinos from the north, a programme initiated by the American government. This migration became the main cause of the struggle and bloodshed between Muslim and Christian Filipinos for many decades. The majority Muslims became a minority in their own lands due to land grabbing and illegal occupation. As a result of this, different organizations related to insurgencies were created, such as the Muslim Independence Movement (MIM), the Moro National Liberation Front (MNLF) and Moro Islamic Liberation Front. This protracted conflict affects not only the Philippines but also the regional security of the countries within the South China Sea. The splinters of these organizations, like the Abu Sayaf and the Maute Group, who turned to become part of or pro-Islamic State of Iraq and Syria (ISIS), overran and destroyed Marawi city, the capital city of the province of Lanao del Sur. Aside from the bombs and airstrikes that turned the city into ruins and ashes, the government claimed that two-thirds of the city, including the *waqf* lands, are under the military reservation. In the absence of knowledge, or because of ignorance of the legal background of *waqf*, other groups or individuals including the local authority have been abusing the non-alienation characteristic of properties related to *waqf*.

²² Waqf denotes the extinguishment of the proprietor’s ownership in the property dedicated and its detention in the implied ownership of God in a manner that its usufruct may accrue to or be applied for the benefit of humanity.

Aside from the issue of *waqf* management and development within the context of a secular state, the demand for the relevance of *zakat* and *bait-ul maal* as a government for poverty alleviation have been curtailed by the doctrine of separation of religion and state. The Muslim communities wouldn't be the poorest in the country if *zakat* institutions were developed and managed by the government. In spite of introducing different government policies and strategies, including the *Tulong sa Tao* (Helping the People) program, the Social Reform Agenda (SRA), the *Lingap para sa mahihirap* (A project for the Poor), and the *Kapit-Bisig Laban sa Kahirapan* (Favoring the poor and neighbors against poverty) as innovative intervention programs for poverty reduction in the country,²³ the rate of poverty in Muslim populated areas remain high. *Zakat* can be an alternative to mobilise Muslims' alleviation of poverty and economic development. Although a number of religious and non-government organisations (NGOs) have tried to function as *zakat* collectors, the role of the institution to provide economic development to the beneficiaries has not materialized. Thus, the Philippines needs to learn from neighbouring countries. In Malaysia, the impact of *zakat* on poverty reduction is very impressive in developing the livelihood of poor people. Every year, there is a constant increase in *zakat* revenue because of the Malaysian government's support in providing sustainable policies and legal protection against mismanagement, abuse and corruption.

Since the establishment of the Philippine Republic, the separation clause has left an indelible mark on the history of Muslim education in the Philippines. It is rather disheartening to witness that Muslim religious schools have not been regarded as an important educational institution to improve the socio-economic life of Muslim minorities. Due to the encroachment of secularism in the Philippines, the true characteristic of religious education is undermined. It is a misconception that religious studies only concern Islamic education and leave other sciences aside. The government does not provide funding for any religious institution because it is not sanctioned by the Constitution. In the absence of funds and support from the government, religious schools have relied on *waqf* properties or cash donated by Muslim organizations or individuals from Muslim countries, particularly in the Middle East. Graduates of interna-

²³ Alizaman D. Gamon & Mariam Saidona Tagoranao. *Zakat and Poverty Alleviation in a Secular State: The Case of Muslim Minorities in the Philippines*. *Studia Islamika*, Vol. 25, No. 1, 2018, pp. 97-133.

tional and local religious schools were not given a chance to be employed by government agencies or non-Muslim private institutions due to the lack of recognition of their educational background.

Another case that impinged the separation clause was Executive Order 46 (EO 46), which gave an exclusive power to the National Commission on Muslim Filipinos (NCMF) to undertake *halal* certification and accreditation that contravened the Philippine Constitution. The NCMF became a government tool to undertake and coordinate development programs and projects for the advancement of Filipino Muslims. The underlying objective in its creation was to serve as the principal agency of the state from which Muslims can seek government assistance, a responsibility so broad as to include the protection of the cultural, social and traditional rights as members of a national cultural minority. The Supreme Court decision declaring EO 46 as null and void shows that the separation of church and state is strict in the Philippines. The US prime adherent of the separation of church and state has in its long line of judicial decisions begun to recognize that *halal* certification does not merely involve religious activities as it is globally practiced for economic reasons. In fact, there are many states in the United States that had passed *halal* legislations (e.g. California, New Jersey, Minnesota, Illinois, and Michigan).²⁴ There are no reported cases related to *halal* fraud statutes in the US which are deemed as unconstitutional under the free exercise and religion clauses. Although, there is no law that provides for the state to be involved in religious matters, it opens up a wider interpretation of the state regulations.

Legal Reforms and Development

Muslim minorities have been marginalized and segregated for many decades because the government failed to provide them equal rights on economic, social and political aspects. Those are the rights that bring a challenge to the Philippine lawmakers to reconsider. For many years, several efforts have been introduced to fill the gap, particularly regarding legal reform and education. To achieve them, the right to culture as a human right became a basis to justify the rights of Muslim mi-

²⁴ See Islamic Da'wah Council of the Philippines, Inc., v. Office of the Executive Secretary, et.al. G.R. No. 153888.
<http://sc.judiciary.gov.ph/jurisprudence/2003/jul2003/153888.htm>. (Accessed on March 19, 2018).

minorities to codify Muslim personal laws, including the creation of Shari'ah courts and the office of *mufti*. The Constitution provides that:

The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national plans and policies.²⁵

This shows that the state has the power to draft any law related to the rights of indigenous cultural communities. Indigenous cultural communities can be simply defined as non-dominant people or those who do not belong to the majority group and who wish to preserve ethnic, religious, or linguistic traditions or characteristics markedly different from the rest of the population. Therefore, the Muslim community has the right to maintain Islamic culture, such as family,²⁶ social-financial matters,²⁷ religious beliefs, practices, and moral values, as its own way of life. The cultural right is in accordance with the International Covenant on Civil and Political Rights (ICCPR) which provides that “in those states in which ethnic, religious, linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion or to use their own language.”²⁸ Culture has been defined as “all forms of expressions, thought and action peculiar to a given community.” It also includes the belief, institutions, and techniques which impose the same style of living on the members of a society.

Recognising the aspiration of Muslims for legal reform, the codification of Muslim personal laws became the priority project. The Code of Muslim Personal Laws (Code): 1) recognizes the legal system of Muslims in the Philippines as part of the law of the land and seeks to make Islamic institutions more effective; 2) codifies Muslim personal laws; and 3) provides for an effective administration and enforcement of Muslim Personal Law among Muslims.²⁹ The provisions are limited to family matters such as marriage, divorce, property relations, custody, guardianship and succession. The application is purely on civil law except for

²⁵ Article XIV, Section 17. Constitution of the Philippines,

²⁶ Marriage and divorce including the ancillary reliefs (maintenance, custody and matrimonial properties) are based on the interpretation of the main sources of Islamic law, the Qur'an, the Sunnah, Qiyas and, Ijma.

²⁷ Referring to *waqf*, *zakat*, *sadaqah*, and *bait-ul maal*.

²⁸ Article 27, International Covenant on Civil and Political Rights (ICCPR)

²⁹ Article 2. Code of Muslim Personal Laws in the Philippines.

some related criminal offenses like *ta'zir* or imposing fines which are under the discretion of the judge. The Code also includes the creation of Shariah courts for adjudication and settlement of disputes over family cases. In line with this, the *mufti's* office and appointment were established to exercise powers and functions conferred to it by the Code. The *mufti's* main functions are to interpret the law and to give advice on cases which are not specifically covered by the provisions of the Muslim Code.

Other than the Code of Muslim personal laws as discussed above, another significant development introduced by the legislators, which was integrated into the 1987 Constitution, was the Organic Act for the Autonomous Region in Muslim Mindanao (ARMM). It was signed into law in August 1989 under Republic Act 6734 after the long bloody struggle for self-rule and self-determination.³⁰ The Act defines the basic structure of government for the region consisting of an elective executive department and legislative assembly. Within its territorial jurisdiction and subject to the provisions of the Constitution and local laws, it provides for the legislative powers over personal, family and property relations, among others, and over preservation and development of the cultural heritage, and any other matters as may be authorized by law for the promotion of general welfare of people in the Muslim region.³¹ Aside from this, it provides for special courts with personal, family and property law jurisdiction consistent with the provisions of the constitution and national laws.³²

Another considerable development that has been urgently addressed for reform was the relevancy and importance of Islamic education. Having known that Muslims were falling behind in education, the government issued the Letter of Instruction (LOI) 71-A which authorized the use of Arabic as a medium of instruction in schools, and LOI-1221 which integrated Islamic *madrassahs* into the Philippine educational system. These policies are in accordance with Article XIV, Section 1 of the Constitution according to which the State protects and promotes the right of all citizens to quality education at all levels and takes appropriate steps to make such education accessible to all. It also says that the State establishes, maintains and supports a complete adequate and integrated system of education relevant to the needs of people and society.³³ Learning the

³⁰ ARMM History. Autonomous Region in Muslim Mindanao. Official Website. <https://armm.gov.ph/discover-armm/history/>. Accessed on March 6, 2018.

³¹ Sec. 20. Republic Act 6734.

³² Sec. 18, Article. X. Philippines Constitution.

³³ Article XIV, Section 2. Philippine Constitution.

Arabic language became relevant and important at the time when millions of Filipinos were able to find jobs in Middle Eastern countries. But the most recent development that can ensure a quality education for Muslim children from the war zone areas is the Arabic Language and Islamic Values Education (ALIVE) Program. This Program offers Arabic as the second medium of instruction in the schools within the Muslim regions. It also strengthens Islamic ethical and spiritual values by teaching children the principles of Islam, especially the Qur'ān and Sunnah. For the purpose of enriching the mandate of ALIVE, Executive Order 570 in September 2006 was issued by the government to institutionalize and integrate peace into the basic and tertiary education by including the teaching and learning of peace into the mandates of the Department of Education and Higher Education Institutions.³⁴

In the pursuit of economic development, the government made several attempts to facilitate *halal* policies by setting aside minor issues related to religious aspects. With the desire to take part in the 2.6 trillion worldwide *halal* product market, the government enacted the Republic Act No. 10817, known as the “Philippine Halal Export Development and Promotion Act,” which develops and promotes *halal* industries as a source of economic growth for the country. In addition to protecting the interest of *halal* producers and manufacturers, the Act is expected to fulfil its role in developing and incorporating the national trade and commerce into the Muslim global customs and business practices.

Agenda for Religious Rights and Peacebuilding

Reforming and developing Muslim minorities is quite challenging for the government. Essentially, the final approval by the legislators of the proposed Bangsa Moro Basic Law (BBL) cannot be watered down by any government program for cultural minorities. BBL is a proposed law for a new autonomous political entity that will create the Bangsamoro Autonomous Region to abolish the existing Autonomous Region in Muslim Mindanao. Muslim communities viewed BBL as a concrete step in the legal sphere for it aimed at establishing lasting peace and harmony in the country. It represents the aspirations, identity and interests of Filipino Muslims for economic, social and political development. Considering the

³⁴ The Institute for Peace and Development in Mindanao (IPDM), Iligan Institute of Technology, Mindanao State University (MSU-IIT).
<https://www.msuiit.edu.ph/ipdm/about.php>. (Accessed on April 30, 2018).

fact that BBL was carefully crafted by Muslim and non-Muslim experts on conflict resolution, the government should explore potential steps for its implementation. However, keen observers of Mindanao affairs may argue that the delayed passage of the BBL approval may unnecessarily create further socio-economic instability in the ARMM region. It is unfortunate that the pre-conceived ideas or assumptions of the Senate and Congress had undeniably brought significant changes to the original content of BBL, which constitute the aspirations of the Muslim communities. The present position of BBL portrays the lack of commitments on the part of the government and, thus, the true essence of multi-culturalism is at stake. For the Muslims, BBL is the last recourse for peacebuilding and would rectify the inherent flaws of the various policies designed by the government to integrate the whole fabric of Muslim communities in nation-building.

Conclusion

This paper addressed the issues of religious rights of Muslim minorities in the Philippines. It discussed various initiatives taken by the government in unveiling their constitutional rights as measures in fulfilling the aspirations of Muslim communities. Some of those rights and vital needs are the issuance of new policies and regulations. But there are more challenges that Muslim youth are facing today about which the government can exercise some form of support and guidance, such as in the critical areas for extremism and radicalism due to poverty, lack of education and high rate of unemployment. With the growing significance of Islam in a secular state, the government must look forward to the Islamicized measures on *waqf*, *zakat*, *bait ul-maal*, and *halal* industry as a model to improve the livelihood of people. The Separation Clause should be enforced with as few restrictions as possible, lest it be detrimental to a compelling government interest. If BBL can be approved, it will resolve and curb the issues of conflict, radicalism, and extremism. If the autonomous government can manage the BBL well, the long-term stability and lasting peace in Muslim communities will be more assured and the younger generations of Muslims can look forward to a great future.

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