

Letter

## Filipinos' Approval of the Institution of Absolute Divorce in the Philippines

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Executive Order No. 209, Family Code of the Philippines, Article 1 Chapter 1 stipulates that “Marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal family life.” (The Family Code of the Philippines, 1987, art. 1, ch. 1). In the Philippines, the question of whether or not divorce should be legalized is still a contentious political topic. Divorce brings up social and moral duties as well as concerns (Gloria 2007). According to the results of a study done by Social Weather Stations on March 25-28, 2017 and December 8-16, 2017, 53% of Filipinos agreed that divorce should be legalized in the country (Cudis 2019). Filipino acceptance of adopting divorce in the Philippine family code has risen steadily over the last few years, from 43% in 2005 to 60% in 2014 (Abalos 2017).

Apart from Vatican City, the Philippines is the only major sovereign state on the earth where divorce is prohibited (Abalos 2017). Nullity, marriage, legal separation, and annulment are currently the only recognized provisions under Philippine court rules, but only under particular conditions and circumstances (European Asylum Office, 2005). Cupin (2018) stresses that the annulment process in the Philippines is expensive and time-consuming, costing over two hundred Philippine pesos (200,000php) and taking several months. Because lawmakers were seeking to make the divorce procedure more efficient than the annulment, the proposed divorce measure may make it cheaper and faster.

As stressed by Grab (2011), the separation of religion and state raises concerns about jurisprudential notions and legislative application, and here is where the conflict began. The religious and spiritual movements in the Philippines, as well as those who have never considered divorce to be constitutional, continue to oppose the introduction of absolute divorce. Divorce, according to the Roman Catholic Church, is sinful and contradicts the principles of marriage. Divorce is seen by the church as a type of adultery and a sin in God’s sight, as it is condemned in the ten commandments. The church’s primary argument on divorce is quoted in the biblical text in Matthew 19:9 “I tell you that anyone who divorces his wife, except for marital unfaithfulness, and marries another woman commits adultery.” Religious organizations also respond to the issue by quoting Article II, Section 12 of the 1987 Constitution that states “the State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of

the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.” Catholic Bishops’ Conference of the Philippines-Permanent Committee on Public Affairs (CBCP-PCPA) strongly opposed the idea of divorce to be implemented in the Philippines “Marriage enjoys the ‘favor of the law’. No less than the 1987 Constitution and the Family Code treat it as an inviolable social institution that should be protected by the State,” the CBCP-PAC official said (Patinio 2018).

On the other hand, a large number of Filipino individuals believed that divorce should be legalized in the country. According to the Veritas Truth Survey undertaken by the Church in March 2018, 39 percent of 1,200 Filipino respondents strongly agree with making divorce legal, compared to 35 percent who strongly oppose it. According to a study conducted by Social Weather Stations (SWS) in 2011, three out of five Filipinos, or 60% of 1,800 respondents, agreed that divorce should be legalized.

The bill establishing absolute divorce was adopted by the Philippine House of Representatives’ Population and Family Relations Committee on February 4, 2020. (Library Congress, 2020). The bill allowing absolute divorce in the Philippines was passed by the House of Representatives Committee on Population and Family Relations on August 17, 2021, and forwarded to the House Plenary for debate.

Stevenson and Wolfers (2007) have been compiling divorce data, research, and information about how marriage evolves through time, comparing the current with the previous 150 years across demographic groups and nations. Cohabitation, the growth of contraceptive availability and the introduction of the internet and the World Wide Web have all had a profound impact on marriage. Given that marriage forms evolve over time, marriage approaches, legal perspectives, and validation should evolve as well. The Gabriela Women’s Party is one of the strongest proponents of divorce legalization in the Philippines. In the Fifteenth Congress’s First Regular Session, Representatives Luzviminda Illagan and Emerciana A. De Jesus submitted House Bill No. 1799, advocating the protection of marriage and family as the cornerstone of essential social institutions. They said unequivocally that

“The present laws relating to the separation of couples and termination are inadequate to respond to the myriad causes of failed marriages. Particularly, the remedies of declaration of nullity and annulment do not cover the problems that occur during the existence of a marriage. Legal separation, on the other hand, while covering problems during the marriage, does not put an end to marriage.”

Despite the absence of a divorce statute in the Philippines, the majority of Filipinos surveyed expressed a desire to end their marriage through divorce.

Furthermore, contrary to popular belief, divorce exists and has been legally recognized since the Civil Code of the Philippines was enacted (Jacob 2013). According to House Bill No. 116, the Gaddang of Nueva Vizcaya, the Igorot, and Sagada of the Cordilleras, the Manobos, Bilaans, and Tagbanwas of Palawan were among the Indigenous Filipino peoples in the Philippines that practiced absolute divorce. Furthermore, the Presidential Decree No. 1083, s. In 1977, entitled “A Decree to Ordain and Promulgate a Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, and Providing for Its Administration and For Other Purposes,” it legally allowed divorce between Muslim marriages.

The divorce law, known as Siete Partidas under the Spanish rule in the Philippines, was regarded as one of the most important legal codes of the Middle Ages. On October 29, 1901, En Banc AGUEDA BENEDICTO, plaintiff-appellee, and ESTEBAN DE LA RAMA, defendant-appellant, filed an appeal, filed for a divorce on the grounds of abandonment and adultery. Partida Law 2, Title 9 of the Fourth Partida, provides in part as follows:

“Husband and wife may accuse each other, in another way than those mentioned in the preceding law; and that is for adultery. And if the accusation is made with a view to separating the parties from living together, or from having any commerce with each other, no other person but the spouses themselves can make an accusation for such a cause, and it ought to be made before the bishop or the ecclesiastical judge (official) either by the parties themselves or their attorneys.” (Agueda Benedicto v. Esteban De La Rama, 1903)

In the Philippines, divorce is currently illegal. The authors recommend conducting a mixed method study to understand not only the quantitative element of the response but also the participants' in-depth opinions in order to acquire a better understanding of the phenomena and issue. In this manner, the researcher will be able to avoid the methodology gap and deliver more substantial, reliable, and valid results.

## References

Abalos, J. (2017). Divorce and separation in the Philippines:Trends and cor relates. Demographic Research. 36(50), 1515-1548. DOI: 10.4054/Dem Res.2017.36.50

Agueda Benedicto v. Esteban De La Rama, G.R. No. L-1056, December 8, 1903

Cudis, C. (2019). PH divorce bill status: It’s complicated. Philippine News Agency. <https://www.pna.gov.ph/articles/1061868>

Gloria, C. (2007). Who needs Divorce in the Philippines?. Mindanao Law Journal. 1. 18-28

Grab, J.E.(2011). Divorce and Remarriage: Applying Biblical Standards to a Modern Culture. [A Senior Thesis, Honors Program, Liberty University] <https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1275&context=honors>

Hatto, T.J., (2005) European Asylum Policy, Institute for the Study of Labor (IZA). No. 1721. <https://www.econstor.eu/bitstream/10419/33335/1/498937216.pdf>

House Bill 1799, An act amending Article 26 of Executive Order of 209, as amended, otherwise known as the Family Code of the Philippines, and repealing Article 36 of the same Code, and for other purposes, 1st Sess, 15th Cong, 2010, at explanatory note [House Bill 1799].

Jacob, J. (2013). Reintroduction of Divorce into Philippine Law. [Master Thesis, University of Toronto] [https://tspace.library.utoronto.ca/bitstream/1807/42968/1/Jacob\\_Jihan\\_A\\_201311\\_LLM\\_thesis.pdf](https://tspace.library.utoronto.ca/bitstream/1807/42968/1/Jacob_Jihan_A_201311_LLM_thesis.pdf)

Library Congress (2020) Philippines: House Bill on Divorce Approved in Committee. <https://www.loc.gov/item/global-legal-monitor/2020-03-04/philippines-house-bill-on-divorce-approved-in-committee/>

Patinio, F. (2018). No to divorce, CBCP insists. Philippine News Agency. <https://www.pna.gov.ph/articles/1025880>

Stevenson, B. & Wolfers, J. (2007). Marriage and Divorce: Changes and their Driving Forces. *Journal of Economic Perspectives*, 21(2).

The Family Code of the Philippines 1987. Art. 1. Ch.1 (Philippines)