

Law, Gender, and the Family in the Philippines

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The author traces the changing social and legal status of the Filipina by examining the shifting Filipino colonial and legal heritage from the immigration of Muslim Malays in the 14th century to the present. She argues that women enjoyed high social standing in what is now the Philippine Republic until colonization by Spain in the 17th century, when Spanish customs, religion, and law imposed many restraints on women. Only with the establishment of the Philippine Republic in 1946 were efforts begun to reverse these restrictive policies. The author focuses particularly on the 1986 Constitution and the changes in the Family Code that have enhanced the legal equality of women within the family. She also calls for continued political work to assure the implementation of existing law and further legal changes that will benefit women.

Law, culture, tradition, attitudes, and government policies determine the status of women in society. The status of the Filipina, for instance, has undergone various transformations under the various foreign colonizers who brought their institutions and legislation to the Philippines. The legal system has been aptly described as a blend of customs, the Roman (civil law) system, and the Anglo-American (common law) system. Civil law operates in the areas of family relations, property, inheritance, contracts, and criminal law, while the statutes and principles of common law are evident in constitutional law, procedural law, corporation law, negotiable instruments, taxation, insurance, labor relations, and banking law. Islamic personal law is in force in some parts of Mindanao, especially with the establishment of Shari'a courts and the Shari'a bar (Presidential Decree No. 1083 [1977]).

To some extent, customary law forms part of the legal heritage of the Filipino because the 1986 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" (art. XIV, sec. 17). Nearly a century earlier, in 1889, the old (Spanish) Civil Code provided that "where there is no statute exactly applicable to the point in controversy, the custom of the place shall be applied, and in the absence thereof, the general principles of law" (art. 6, ¶ 2). Although this provision was discarded in the new Civil Code that

took effect in 1950 (Rep. Act No. 386), it is believed that judges may still apply the custom of the place or, in its default, the general principles of law in the absence of any statute governing the point in controversy. Otherwise, the provision in the civil code that requires the judge to decide every case even where there is no applicable statute would be a veritable enigma (Gamboa 1969:14–15; Civil Code, art. 9). The Civil Code also provides that “[c]ustoms which are contrary to law, public order or public policy shall not be countenanced” and a “custom must be proved as a fact, according to the rules of evidence” (arts. 11 & 12). Thus, in Philippine law, customs are considered a supplementary source of law.

The Philippine legal system—this blend of systems—is a result of the immigration of Muslim Malays in the 14th century and the subsequent colonization of the islands by Spain and the United States.

Historical Background

The Precolonial Period

Before the Spanish came, women enjoyed high social standing. A woman could become chief of the *barangay*, perform the role of *babaylan* (priestess), hold property, and even name her own children (Blair & Robertson 1903–9:155–57).

Women enjoyed substantial equality with their menfolk. They had the right to own property. They could obtain divorce and re-marry. In case of separation, they were entitled to a share of conjugal earnings; and to a share of the children. Prior to marriage, of course, they were under tutelage of a sort. They could not own property in their own right. They could not leave the household residence and make their home elsewhere. But once married, they were virtually emancipated, to the extent that they could trade with their own money and maintain an independent income from their business. (Fernandez 1976:19)

Western laws diminished women’s standing by substituting Western institutions for the indigenous practices.

The Spanish Regime

The introduction of Spanish customs, religion, and laws imposed numerous restraints on women. Only in the latter part of Spanish rule was attention given to education. The Royal Decree of 1863 provided for primary schooling for boys and girls with one male and one female teacher for every 5,000 inhabitants, a requirement implemented only in the *centros de poblacion* and not in the rural areas (Soriano 1975:78, 81). The girls’ schools were classified into *colegios*, which offered academic and vocational courses, and *beaterios*, which were run like orphanages. These in-

stitutions mainly prepared women for either motherhood or the religious life and offered little academic instruction (*ibid.*, citing Alzona 1932:33–34). Aside from reading, writing, and arithmetic, girls were required to take such subjects as deportment and needlecraft, rather than Spanish, geography, history, and practical agriculture, which were taught only to boys (Soriano 1975:80, citing Aldana 1949:5–6).

Among the existing family laws at the close of Spanish rule were the *Codigo Civil de 1889*¹ and the Marriage Law of 1870. The Roman doctrines of *patria potestas* and *paterfamilias* as absolute ruler and the wife's subordination to the authority of her husband were seen in the several provisions of the Spanish Marriage Law of 1870, the Spanish Code of Commerce of 1845, and the Spanish Civil Law of 1885.

The historian Encarnacion Alzona (1934:128) believed that although the Filipinas were denied political rights and an enlightened education, they compensated for it by actively participating in the economic life of the country. They handled retail businesses, administered farms, and practiced crafts like weaving, dressmaking, embroidery, hatmaking, and slippermaking, which did not require them to leave the house. Alzona added that foreign visitors in the 19th century noted the entrepreneurial skills of the Filipino woman.

The pivotal events in the history of the Filipina during the Spanish regime were (1) her entry into the world of wage labor, which came with her employment in government-owned tobacco factories in 1781; (2) her demand for a more enlightened education, made in 1888 when the women of Malolos petitioned Governor General Weyler to open an academy where they could learn Spanish; (3) her admission to a teaching career in 1894;² and (4) her involvement in the liberation of the country in 1896 (Camagay 1989:28–32).

The American Era and the Commonwealth

With the end of the Spanish-American War and the signing of the Treaty of Paris on 10 December 1898, the Philippines was ceded to the United States. Under U.S. rule the political laws of the Philippines were totally abrogated, and Spanish laws, customs, and property rights inconsistent with the U.S. Constitution and with American principles and institutions were superseded. Judicial decisions of the Spanish courts based on Spanish statutes were not considered binding as precedents. Local private laws were retained when they were in accord with the principles of

¹ Except arts. 42–107 relating to marriage, the application of which was suspended in the Philippines because of the opposition of the Roman Catholic church.

² Filipinas began entering teaching careers in 1894 when 16 women were graduated as *maestras superiores* from the Assumption Convent.

international law (*Sanchez v. United States* 1910; *In re Shoop* 1920). Thus, the Spanish Civil Code remained in force until 1949.

U.S. rule ushered in the concepts of liberty and egalitarianism. Education, too, was a priority. Act No. 74 (1901) provided for free primary education for boys and girls and gave access to a normal school, a trade school, and a school of agriculture. Admission to state universities and colleges was open to all regardless of sex, as was stated explicitly in the law that established the University of the Philippines in 1908 (Act No. 1870, sec. 3). This provision was reproduced in subsequent charters for other state colleges and universities. The education of the Filipina made her socially and politically aware.

Meanwhile, absolute divorce was instituted by Act No. 2710 (1917), which provided that a petition could be filed for adultery on the part of the wife or for concubinage on the part of the husband if committed in any of the forms described in the Penal Code. The decree of divorce was granted a year after the final judgment of the court. Clearly, there was unequal treatment here in that the same standards were not applied to wives as to husbands for violation of the vow of mutual fidelity.

Between 1912 and 1933 bills were introduced to extend suffrage to women, but not until 1933, with the passage of Act No. 4112, were women granted the right to vote and made eligible for all public offices. This statute was never implemented, however, because a constitutional convention was convoked in 1934. The 1935 Constitution provided that "the National Assembly shall extend the right of suffrage to women, if in a plebiscite which shall be held for the purpose within two years after the adoption of the Constitution, not less than three hundred thousand women possessing the necessary qualifications shall vote affirmatively on the question" (art. V, sec. 1). Commonwealth Act No. 34 (1936) implemented this provision and also provided that women were now eligible to run for public office. The plebiscite garnered a sufficient number of votes, and Filipinas exercised the right to vote in the local elections of 1934 for the first time.

The government adopted policies to protect women in the work force, but, in fact, these merely restricted employment opportunities. Special protection was based on the relative physical weakness of the average woman and on her child-bearing and maternal functions. Despite the seeming improvement in the status of women, then, the stereotype of women as wives and mothers remained.

The Japanese Occupation

On 8 December 1941, the Philippines was invaded by Japanese forces, and it was occupied until 1944. During this period, a more liberal divorce law was promulgated (Executive Order No.

141, 1943), repealing Act No. 2710. The allowable reasons for divorce were (1) adultery on the part of the wife and concubinage on the part of the husband; (2) the attempt by one spouse on the life of the other; (3) a second or subsequent marriage by either spouse before the first marriage was legally dissolved; (4) a loathsome contagious disease; (5) incurable insanity; (6) impotence; (7) intentional or unjustified desertion for one year; (8) an unexplained absence for three years; (9) repeated bodily violence of such a nature that the spouses could not continue living together without endangering the lives of both or of one of them; and (10) slander by deed or gross insult to such an extent that further living together was impracticable.

All the judicial acts and proceedings of the courts during the Japanese period that were not political in nature were considered valid after the restoration of the Commonwealth (*Co Kim Cham v. Valdez Tan Keh* 1945; *Herrero v. Diaz* 1945).

The Philippine Republic, 1946–Present

The inauguration of the Philippine Republic on 4 July 1946 was the culmination of the Filipinos' 300-year struggle for freedom. The 1935 Constitution served as the fundamental law of the land. Independence also brought many social changes, resulting in the gradual restoration of women's rights. A new Civil Code was enacted on 18 June 1949, integrating into Philippine law certain Filipino laws and customs, together with judicial decisions from other countries: the United States, France, Argentina, Germany, Mexico, Switzerland, England, and Italy (Rep. Act No. 386, effective in 1950). In drafting the Civil Code, the Code Commission adopted as a fundamental principle the liberalization of women's rights, which is reflected in several provisions.

Although liberal laws were adopted, the code retained discriminatory provisions against women. For example, the code set the age of consent for marriage at 16 years of age for males and 14 for females (art. 54). Parental consent was required for females below 18 to marry and for males below 20 (art. 62). A daughter could not leave the parental home without the consent of the father or mother in whose company she lived except when she became a wife or when she exercised a profession or calling or when the father or mother contracted a subsequent marriage (art. 403); these requirements did not apply to a son.³

A woman of legal age could practice any profession or engage in business or enter into contracts, but when she married, she could no longer accept gifts without her husband's consent

³ The Family Code of 1987 (discussed below) has repealed titles III–XV, Book I, of the Civil Code, which dealt with marriage, legal separation, rights and obligations and property relations between husband and wife, the family, paternity and filiation, support, parental authority and emancipation, and age of majority.

(art. 114), and her husband could object to her engaging in any profession or occupation if his income was sufficient for the family according to its social standing and if his opposition was based on serious and valid grounds (art. 117). Other obvious manifestations of the husband's authority were illustrated by his right to fix the family residence (art. 110); the father's power to administer the property of unemancipated children (art. 320); the father's preferential right to give or deny consent for the marriage of a child (art. 61); and the husband's administration of the conjugal property (arts. 112 & 165).

Although article 111 of the Civil Code states that the "husband is responsible for the support of the wife and the rest of the family," research on decisionmaking patterns in the family indicates otherwise. A study on the multiple roles of Filipino women concludes that as housekeepers, wives function as "co-managers" of the household rather than mere subordinates to their spouses (Castillo 1979:151). The wife is designated the family treasurer. Cultural norms dictate that the husband turn over his earnings to his wife and receive from her a daily allowance for his expenses. Likewise, in a study of women in two agricultural communities, all the wives were responsible for borrowing money either to meet production needs or to tide over the household. They also had to reconcile the budget and bear responsibility for cash shortages (Banzon-Bautista 1986:72 n.46).

In a synthesis of research on women's roles, certain variables that affect decisionmaking patterns in a family are noted:

[A]s place of residence becomes more urbanized, women's participation in money-related decisions declines . . . [due to] the lower work participation of urban women relative to their husbands'.

An increase in the level of educational attainment also improves women's status in decision making. This result is especially seen in low-income families who have experienced increases in income. . . .

. . . The wife's dominance in the decision-making process was observed to increase from an initial low during the beginning family stage, peaking at the child-rearing and child-leaving stages, and declining thereafter. The husband's dominance is most marked at the beginning stage, but gradually diminishes during the later phases. On the other hand, joint decisionmaking is most typical during the childbearing stage where there are still young children below nine years old in the family. These trends are interpreted to mean that wives derive their influence from the presence of children in the family.

For most Filipinos, household income is usually less than what is needed. Exigency, therefore, decides where the meager sum should go. . . . The role of family treasurer may therefore be a very circumscribed one in reality, despite the many functions it is said to encompass. (Sevilla 1989:44–45 nn.54–55; sources omitted)

Until recently, before the adoption of the Family Code of 1987, discrimination against women was also manifest in the grounds for legal separation. For the husband, proof of only one sexual contact by the wife with a man not her husband was sufficient to grant the separation (Civil Code, art. 97; Rev. Pen. Code, art. 333). But for the wife to be entitled to a separation, the husband must be guilty of concubinage as defined by the Revised Penal Code (art. 334): (1) maintaining a mistress in the conjugal dwelling, (2) having sexual intercourse with the other woman under scandalous circumstances, or (3) cohabiting with her in any other place. "Cohabit" here has been held to mean "dwell and live together in the same house as husband and wife." Sexual intercourse performed during secret trysts but not in scandalous circumstances does not constitute concubinage (*People v. Pitoc* 1922). Justice Lourdes P. San Diego (1975:39, 98) has commented on the discriminatory law:

[T]he moral implications brought about by the legal fiction that in separation the marriage persists, not to speak about the extreme difficulty of proving the grounds of concubinage, call for a re-examination of the law. . . . But because of the predominantly Catholic composition of the country, the tenets of which strictly forbid the severance of "what God has put together" the proposal [of the system of absolute divorce] has been encountering vexing reactions here at home.⁴

Until the enactment of the Family Code, widows were also discriminated against. Civil Code article 84 provides that "no marriage license shall be issued to a widow till after three hundred days following the death of her husband, unless in the meantime she has given birth to a child." The purpose of the law was to prevent confusion about the paternity of a child, but this could easily be prevented by the issuance of a medical certificate to the effect that the applicant is not pregnant. According to the code, a widow who remarried lost parental authority over her children unless the deceased husband's will indicated otherwise (art. 328). This law went against Filipino traditions, for it is the mother who keeps the family together. This provision was superseded, however, by article 17 of the Child and Youth Welfare Code (Presidential Decree No. 603) in 1975, which gives the surviving spouse the right to exercise parental authority. This right is reiterated in the Family Code of 1987 (Executive Order No. 209).

The Civil Code contains provisions on marriages between Muslims, between pagans, and between Christians and Muslims or pagans, which may be performed in accordance with their customs, rites, and practices. No marriage license or legal formalities are necessary (art. 78; Family Code, art. 33). But in mixed

⁴ She mentioned, however, that the predominantly Catholic countries of Italy and Brazil now grant absolute divorce.

marriages the law not only favors the Christian party but also makes gender a determining factor of what law will govern the solemnization of the marriage. In a marriage between a Christian male and a Muslim or pagan female, the general provisions of the Civil Code govern, but when the marriage is between a Muslim or pagan male and a Christian female, special rules permit the marriage to be performed in accordance with the customs, rites, or practices of the man (if he lives in a non-Christian province) if so desired by the contracting parties. The Muslim Code of Personal Laws reinforces this discrimination by stating that it applies to marriage and divorce only when both parties are Muslims or when the male is Muslim and the marriage is solemnized in the Philippines in accordance with Muslim law or the Code (Presidential Decree No. 1083 [1977], art. 13).

Divorce among Muslims residing in non-Christian provinces was recognized for a 20-year period fixed by Republic Act No. 391 (1949). Because this act expired on 18 June 1969, Presidential Decree No. 793 was issued; it recognized Muslim divorce and was applied retroactively. The law was subsequently embodied in the Muslim Code of Personal Laws on 4 February 1977.

The 1986 Constitution

Equal protection under the law, an important principle of democratic government, is guaranteed in the Philippine Bill of 1902 (sec. 5), the Philippine Autonomy Act of 1934, and the Constitutions of 1935, 1972, and the 1986 (1935 Constitution, art. III, sec. 1 [1]; 1972 Constitution, art. IV, sec. 1; 1986 Constitution, art. III, sec. 1).⁵ Equal protection simply means that persons similarly situated should be treated substantially the same without discrimination or preference. This guarantee is not intended to secure social equality but to ensure legal equality—the enjoyment of similar rights and privileges and subjection to like obligations for persons within the same class. Philippine courts do not have much opportunity to consider sex discrimination as a violation of the equal protection clause. Under the law, classification on the basis of biological differences between the sexes is valid. Classifications on the basis of special considerations to which women are naturally entitled are permissible. Some examples are the constitutional provisions and laws protecting working women that take into account their maternal functions (1935 Constitution, art. XIV, sec. 6; 1986 Constitution, art. XIII, sec. 14; Labor Code, arts. 130–34).

Because of the lopsided social standards and legal inequities that make it difficult for women to realize their full potential, the

⁵ It states that “no person shall be deprived of life, liberty, or property without due process of law nor shall any person be denied the equal protection of the laws.”

drafters of the 1986 Constitution formulated section 14 of article II: "The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men." Felicitas Aquino of the Constitutional Commission of 1986 considered this provision to be self-executory.

The intention in Section 11 is to provide for a self-implementing provision that would itself repeal all discriminatory and antifeminist laws in the Civil Code and the Revised Penal Code. . . . We do not ask for absolute equality or sameness. Even the law would recognize that sex provides a justifiable and valid classification; that is, in the context of the equal protection of the law clause. But what we want is for us to rid ourselves of the very comfortable notion that women are just to be protected in [*sic*] a pedestal. (Philippines 1986–87:726–27)

It is to be doubted, however, whether the provision can be as self-executory as the commissioner would have liked. Each specific statute assailed as unconstitutional must come before the courts for review, and only upon the court's pronouncement of its unconstitutionality is the law nullified.

The 1986 Constitution also emphasized the importance of the family in the following provisions:

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 and strengthen the life of the mother and the life of the unborn from conception. (Art. II, sec. 12)

The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development. (Art. XV, sec. 1)

Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State. (Art. XV, sec. 2)

These policies are reinforced in the Family code when it states: "The family, being the foundation of the nation, is a basic social institution which public policy cherishes and protects. Consequently, family relations are governed by law and no custom, practice or agreement destructive of the family shall be recognized or given effect" (art. 149).

The Family Code

The Family Code was signed by President Corazon C. Aquino on 17 July 1987, before Congress convened, and took effect on 3 August 1988. The Civil Code Revision Committee undertook to revise the law on marriage and family relations in partial realization of women's long fight for equality with men before the law,

spending almost eight years on the project.⁶ As President Aquino herself stated:

Close to forty years of experience under the Civil Code adopted in 1949 and changes and developments in all aspects of Filipino life since then have revealed the unsuitability of certain provisions of that Code, implanted from foreign sources, to Philippine culture; the unfairness, unjustness, and gaps or inadequacies of others; and the need to attune them to contemporary developments and trends.

In particular—to cite only a few instances—“(1) the property regime of conjugal partnership of gains is not in accord with Filipino custom, especially in the rural areas, which is more congenial to absolute community of property; (2) there have considerably been more grounds for annulment of marriage by the Church than those provided by the Code, thus giving rise to the absurd situation of several marriages already annulled under Canon Law but still considered subsisting under the Civil Law and making it necessary to make the grounds for annulment under both laws to coincide; (3) unequal treatment of husband and wife as to rights . . . ; (4) the inadequacy of the safeguards for strengthening marriage and the family as basic social institutions recognized as such by the New Constitution; (5) recent developments have shown the absurdity of limiting the grounds for legal separation to the antiquated two grounds [*sic*] provided under the Civil Code; (6) the need for additional safeguards to protect our children in the matter of adoption by foreigners; and (7) to bring our law on paternity and filiation in step with or abreast of the latest scientific discoveries.” (Brief submitted by the Civil Code Revision Committee as cited by Sempio-Diy 1988:ii–iii)

Changes Introduced

The Family Code introduced drastic changes, the following, among others.

First, the Canon Law concept of void marriages was adopted to some extent. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated and could not comply with the essential marital obligations of marriage shall be void even if the incapacity becomes manifest only after solemnization of the marriage (art. 36).

According to the committee, paragraph 3 of Canon 1095 (Catholic Church 1983), a ground for nullifying marriage, was adopted as a substitute for divorce. Because divorce is strongly opposed by the Catholic church, the committee decided to draw

⁶ The committee has had as members Professor Florida Ruth P. Romero (1979–84), Justice Jose B. L. Reyes (1964–93), and Justice Ricardo C. Puno, chairpersons; Justice Irene R. Cortés, Justice Eduardo Caguioa, Justice Leonor I. Luciano, Judge Alicia Sempio-Diy, Dean Fortunato I. Gupit, Jr., Professor Ruben F. Balane, Professor Esteban B. Bautista, Professor Araceli T. Baviera, Assistant Secretary Flora C. Eufemio, members; and Dean Bartolome S. Carale, project director.

from the Canon Law itself, which solves the problem of church-annulled marriages that still exist under the civil law (Sempio-Diy 1988:36). The committee did not give any examples of psychological incapacity but chose to let the judge interpret the provision case by case, guided by experience. The findings of experts and researchers in psychological disciplines and the decisions of church tribunals, though not binding on civil courts, may be given persuasive effect in judges' decisions (*ibid.*, p. 37).

Second, the parties to a marriage are expressly required to be male and female (art. 2, ¶ 1), and the age of consent has been raised to 18 for both males and females (art. 5). Parental consent is required for those over 16 and under 21 (art. 14), and parental advice is required for those over 21 and under 25 (art. 15).

Third, the prohibition against the issuance of a marriage license to a widow until 300 days have passed since the death of her husband has been eliminated. Article 351 of the Revised Penal Code penalizing such widows is also deemed repealed.

Fourth, foreign marriages of Filipinos are recognized in the Philippines. But even if such marriages are valid under the laws of the countries where they were solemnized, if the marriages are void under articles 35–38 of the code, they are void in the Philippines. Where marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse, enabling him or her to remarry, the Filipino spouse shall likewise be able to remarry under Philippine law (art. 26, 2d ¶). This revision is to avoid the absurd situation of Filipino women being considered married to their alien husbands even if the latter validly divorced them under their own national laws. The provision does not apply, however, to a divorce obtained by a Filipino abroad; the divorce is void because divorce is not allowed in the Philippines, and under article 15 of the Civil Code, Filipinos are governed by their national law wherever they go.

Fifth, there are more grounds for annulment of marriage than provided under the Civil Code, namely, lack of a marriage license, bigamous or polygamous marriages not falling under article 41, marriage solemnized by persons with no legal authority, marriages contracted by any party under 18 years of age (even with parental consent), lack of parental consent, insanity, violence or intimidation that vitiated consent, fraud, the physical incapacity of either party to consummate the marriage and the continuation of such incapacity and its apparent incurability, and a sexually transmissible disease that is found to be serious and that appears to be incurable.⁷ Fraud as grounds for annulment has been broadened to include concealment of a sexually trans-

⁷ Civil Code art. 85 enumerates minority status, insanity, voidable bigamous marriage, fraud, violence or intimidation, and impotency.

missible disease, regardless of its nature, and concealment of drug addiction, habitual alcoholism, homosexuality, or lesbianism (Family Code, art. 45).

Sixth, where only two grounds for legal separation existed in the Civil Code, the Family Code (art. 55) has ten:

- (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
- (2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;
- (4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;
- (5) Drug addiction or habitual alcoholism of the respondent;
- (6) Lesbianism or homosexuality of the respondent;
- (7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;
- (8) Sexual infidelity or perversion;
- (9) Attempt by the respondent against the life of the petitioner; or
- (10) Abandonment of the petitioner by the respondent without justifiable cause for more than one year.

In addition, sexual infidelity is substituted for adultery and concubinage as a ground for legal separation. This eliminates the sexual double standard, but note that this double standard is still found in the Revised Penal Code (arts. 333 & 334).

Seventh, both husband and wife shall fix the family domicile, and in case of disagreement the court shall decide (art. 69, 1st ¶). They are jointly responsible for the support of the family (art. 70) and the management of the household (art. 71), and either spouse may exercise any legitimate profession, occupation, business, or activity without the consent of the other, who may object only on valid, serious, and moral grounds. In case of disagreement, the court shall decide (art. 73).

The administration of community or conjugal property is the right of both spouses (arts. 96 and 124). Disposition or encumbrance of property is also with the consent of both spouses; if only one consents, court authority must be obtained (arts. 96 and 124[2]). If one spouse dies, the surviving spouse should settle the estate of the deceased spouse within one year from the spouse's death, and if the survivor remarries without doing so, there will be complete separation of property in the subsequent marriage (art. 103).

Eighth, the Family Code establishes absolute community of property for spouses (art. 75), but the parties may adopt the re-

gime of conjugal partnership of gains or any other regime in their marriage settlements (art. 103).

Two of the more obvious provisions in the Family Code that are still discriminatory to women are articles 211 and 225, which favor the father's decision in cases where disagreement exists between the father and the mother and where authority over the property of the children is concerned. The provisions allow for the possibility that children will not wholeheartedly respect the mother's opinion and judgment. Although the mother can have recourse against the father's judgment by going to court, litigation entails a long and expensive process that most women cannot afford.

The Family Code is still new. More research needs to be undertaken to determine the real effects of its provisions, especially on women as family members.

Conclusion

In recent years, the Filipina has made substantial gains before the law. The government has been responding positively to her plight. On 8 March 1989, the Philippine Development Plan for Women, 1989–92, was implemented through Executive Order No. 348, series of 1989. This administrative issuance, viewed as a blueprint for women's integration into national development, is the result of a series of sectoral consultations with nongovernmental organizations. It was drawn up by the National Commission on the Role of Filipino Women in coordination with the National Economic and Development Authority and endorsed by the Cabinet Assistance System, which addresses the need to institute appropriate policies, strategies, programs, projects, and mechanisms to ensure that women participate on a basis of equality with men, both as active change agents and as beneficiaries of programs and services. Pursuant to the recommendations in the plan, several bills have been passed in Congress to remove discriminatory provisions in the statutes and to improve the status of the Filipina. One bill recently enacted into law is the Women in Development and Nation Building Act. It provides that women of legal age, regardless of civil status, shall have the capacity to act and enter into contracts in every respect equal to those entered into by men under similar circumstances. Included are security and credit arrangements, insurance contracts, and access to all government and private sector programs, loans, and nonmaterial resources.

Meanwhile, women's issues continue to spawn interest among groups and individuals, particularly on the discriminatory penal law provisions and matters of health, education, employment, battered women and children, and family decisionmaking responsibilities. Although Philippine laws pertaining to women

are adequate, the gap between law and practice still must be examined and remedied to match economic and social realities. As Justice Irene R. Cortés said in a 1992 speech before the Philippine Women Judges Association: “[R]eform in the law unaccompanied by a change in the environment in which the law will operate, cannot by itself achieve the objective sought.”