

September 28, 2015; RP Catholics Can't Divorce

Last week I discussed Guam's unique 7-day divorce procedure that allows an off-island couple to divorce on Guam if both agree to the divorce and one travels to Guam and spends seven days on the island.

Today, I'd like to focus on a particular group of people who, with greater frequency, are using this process – our neighbors from the Philippines.

In the Philippines, when a marrying couple promise to stay together until death, they mean it. For better or worse, most Filipino couples must remain married until one of them meets their maker. This is because the Philippines is the only remaining country in the world that does not recognize divorce. Vatican City, a city state, is the only other governmental entity without divorce proceedings.

The Catholic Church continues to wield tremendous power in the Philippines, and the Church is vehemently opposed to allowing non-Muslim Filipinos to divorce. Under the Philippine Code of Muslim Personal Laws, Filipino Muslims, who comprise about 10% of the population, can divorce. For most of the remaining 90% of the population, ending a marriage by divorce isn't an option.

For some Filipinos, the fact that their country is the last holdout for banning divorce is a source of intense pride. For others, it is a curse. Public sentiment on the topic has been shifting rather dramatically over the past decade. In 2005, 43% of Filipinos supported passing divorce legislation. In 2011, the number increased to 50%. A poll taken in the last quarter of 2014 indicates that 60% of Filipinos now support divorce while only 29% oppose it.

The Catholic Church may not have the last word on the topic for long. Over the past 45 years, the Vatican has lost a string of intense political battles to legalize divorce in predominantly Catholic countries. Ironically, the first country to turn a deaf ear to the Church's opposition to divorce was Italy, a country that literally envelops Vatican City. The staunchly Catholic country legalized divorce in 1970. A 1974 referendum to overturn the law was overwhelmingly rejected.

Other traditionally Catholic countries followed Italy's lead. Brazil legalized divorce in 1977, Spain in 1981, Argentina in 1987, Ireland in 1997, and Chile in 2004.

My research indicates that for much of its history, the Philippines allowed divorce. Prior to Spain's colonization, numerous indigenous tribes practiced their own versions of divorce. Only following the Spanish conquest and the subsequent conversion of the Filipino population to Catholicism was divorce banned. This ban was lifted during the American colonial period from 1898 to 1946, when adultery and "concubinage" were acceptable grounds for divorce. Even the Japanese, during their short and brutal World War II occupation, liberally granted divorces.

Shortly after the Philippines gained independence in 1946, the Catholic Church reasserted its influence and divorces were again banned for all Filipinos. Three years later, under the Philippine Civil Code of 1949, an exception was carved out for the Muslim population.

Under current Philippine laws, Filipinos have three options to address unhappy marriages. These are legal separation, voiding a marriage, and annulment. While legal separations allow the couple to live apart and to divide their property, they remain legally married, often until one spouse dies. Separations aren't just handed out upon request. Rather, the party pursuing the action must plead and prove acceptable grounds for the separation. Such grounds include: when one spouse is sentenced to five or more years in jail; physical abuse; drug or alcohol addiction; homosexuality; adultery; aggressive attempts to have a spouse change his or her religion or political views; and desertion.

One way Philippine law allows a marriage to end is to have the marriage voided. Under this process, the person pursuing the action must prove that the marriage never legally existed in the first place. For example, in the Philippines neither a man nor a woman can marry before their 18<sup>th</sup> birthdays. So, if a person can prove his or her spouse was under the age of 18 at the time of the marriage, the marriage is considered void.

A marriage is also void where the official presiding over the wedding lacked proper authority; where one spouse was already married to someone else; or in instances of incest, when the spouses are too closely related.

Next week, we'll discuss the only other option to ending a marriage in the Philippines – annulment.