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**PROCEEDINGS OF THE CONSTITUTIONAL  
COMMISSION ON THE FAMILY, 1986 (Part 1)**

The *Philippine Population Journal* is providing its readers the proceedings of the 1986 Constitutional Commission's on Article XV, the Family.\* This is partly to make up for the absence of any discussion on Article XV in the "Primer on the Proposed 1986 Constitution" prepared by the Commission on Elections. The major reason for reproducing the proceedings is to provide the proper content in the future when questions touching on the intent of the Constitutional provisions on the family are raised.

Article XV, the Family, contains the following sections:

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

Section 2. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

Section 3. The State shall defend:

(1) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;

(2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudiced to their development;

(3) The right of the family to a family living wage and income; and

(4) The right of families or family associations to participate in the planning and implementation of policies and programs that affect them.

Section 4. The family has the duty to care for its elderly members but the State may also do so through just programs of social security.\*\*

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\* Republic of the Philippines, The Constitutional Commission of 1986, *Record of the 1986 Constitutional Commission, Proceedings and Debates*, Vol. V, pp. 24-79.

\*\* Republic of the Philippines, The Constitutional Commission of 1986, "The Constitution of the Republic of the Philippines," 1986.

CONSIDERATION OF PROPOSED RESOLUTION NO. 542  
(Article on Family Rights)

September 24, 1986

PERIOD OF SPONSORSHIP AND DEBATE

MR. RAMA. I move that we consider Committee Report No. 39 on Proposed Resolution No. 542 as reported out by the Committee on Social Justice and Committee on Human Resources.

THE PRESIDING OFFICER (Mr. Colayco). Is there any objection? (Silence) The Chair hears none; the motion is approved.

Consideration of Proposed Resolution No. 542 is now in order. With the permission of the body, the Secretary-General will read only the title of the proposed resolution without prejudice to inserting in the record the whole text thereof.

THE SECRETARY-GENERAL. Proposed Resolution No. 542, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS.

(The following is the whole text of the proposed resolution per C.R. No. 39).

JOINT COMMITTEE REPORT NO. 39

The Committee on Social Justice and the Committee on Human Resources to which was referred Proposed Resolution No. 272, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF THE FAMILY,

introduced by Hon. Nieva, Bacani, Munoz Palma, Rigos, Gascon and Guingona, have considered the same and have the honor to report it back to the Constitutional Commission of 1986 with the recommendation that the attached Proposed Resolution No. 542, prepared by the committees, entitled:

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS,

be approved in substitution of Proposed Resolution No. 272 with the members of the committees, together with Hon. Munoz Palma, Rigos, and Guingona as authors thereof.

(Sgd.) WILFREDO V. VILLACORTA  
Chairperson, Committee  
on Human Resources

(Sgd.) JOSE F.S. BENGZON, JR.  
Member

(Sgd.) MA. TERESA F. NIEVA  
Chairperson, Committee  
on Social Justice

(Sgd.) SERAFIN V.C. GUINGONA  
Member

(Sgd.) JOSE LUIS MARTIN C. GASCON Vice-Chairman, Committee on Social Justice	(Sgd.) EFRAIN B. TRENAS Member
(Sgd.) LUGUM L. UKA Vice-Chairman, Committee on Human Resources	(Sgd.) CHRISTIAN S. MONSOD Member
(Sgd.) JAIME S. L. TADEO Member	(Sgd.) LINO O. BROCKA Member
(Sgd.) FELICITAS S. AQUINO Member	(Sgd.) JOSE E. SUAREZ Member
(Sgd.) MINDA LUZ M. QUEZADA Member	(Sgd.) BLAS F. OPLE Member
(Sgd.) TEODORO C. BACANI Member	(Sgd.) EULOGIO R. LERUM Member
(Sgd.) EDMUNDO G. GARCIA Member	(Sgd.) PONCIANO L. BENNAGEN Member
(Sgd.) CHRISTINE TAN Member	(Sgd.) FRANCISCO A. RODRIGO Member
(Sgd.) CIRILO A. RIGOS Member	(Sgd.) FLORANGEL ROSARIO BRAID Member

PROPOSED RESOLUTION NO. 542

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS

Resolved as it is hereby resolved by the Constitutional Commission in session assembled. To incorporate in the New Constitution a separate Article on the Protection and Promotion of the Rights of the Family, with the following provisions:

ARTICLE \_\_\_\_

Family Rights

SECTION 1. The State shall actively promote the total human development - social, economic, political, cultural, and spiritual - of the Filipino family.

SECTION 2. The State shall defend the following fundamental rights of the family:

a) The right to life from the moment of conception, and of special protection and assistance while in the age of minority.

b) The right of spouses to found a family in accordance with their religious beliefs and convictions and the requirements of responsible parenthood.

c) The primary right of parents to educate their children in conformity with their moral or religious beliefs, and to receive from the State the necessary aid and assistance to perform their educational role properly.

d) As spouses, both man and woman shall enjoy equal rights before the law, which shall not be discriminatory in favor or against either sex.

e) The right of family wage earners to a decent family living wage.

f) The right to assistance in times of special need.

g) The right of the elderly to be cared for within the family, according to Filipino tradition.

PROPOSED RESOLUTION NO. 542  
(AS AMENDED)

RESOLUTION TO INCORPORATE IN THE NEW CONSTITUTION A SEPARATE ARTICLE ON FAMILY RIGHTS.

Resolved, as it is hereby resolved by the Constitutional Commission in session assembled. To incorporate in the new Constitution a separate article on the protection and promotion of the Rights of the Family with the following provisions.

ARTICLE \_\_\_\_  
Family Rights

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

SECTION 2. Marriage as an inviolable social institution is the foundation of the family and shall be protected by the State. The State shall respect the family as an autonomous social institution.

SECTION 3. The State shall defend:

a) The right of spouses to found a family in accordance with their religious conviction and the demands of responsible parenthood.

b) The right of children to assistance including proper care and nutrition and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.

c) The right of the family to a family living wage and income.

d) The right of families and family association to participate in the planning and implementation of policies and programs that affect them.

SECTION 4. The family has the duty to care for its elderly members but the State may also do so through just schemes of social security.

MR. RAMA. I ask that Commissioner Nieva be recognized to make a sponsorship remark on the Article on Family Rights.

THE PRESIDING OFFICER. (Mr. Colayco). Commissioner Nieva is recognized.

#### SPONSORSHIP REMARKS OF COMMISSIONER NIEVA

MS. NIEVA. Mr. Presiding Officer, in this Constitution, we have risen to the defense of the rights of the individual, of women, of children. The rights of the person, however, have a fundamental social dimension in the institution of the family. The family as a natural society exists prior to the State or any other community. Thus, Pope John Paul II has rightly said that the future of humanity passes by way of the family. From this it follows that the family possesses, as given by the Author of nature Himself, certain inherent and inalienable rights which are intrinsic to its very existence and perpetuity. Many cultures, particularly in highly technologized countries, have become desensitized to His deeply human realities. In some countries, in fact, it appears that the family as a basic and fundamental institution has ceased to be priority concern of the State. While history affirms the family's indispensable role as primary educator, economic provider, cultural mediator and spiritual formator, the rights of the family are often ignored and even undermined by legal, social and economic structures and programs.

We, Filipinos are truly a family-centered culture and this is one of our real strengths as a nation. We are poor in many ways but not in our instinctive love and commitment to family life. Our core family values may yet prove to be our greatest contribution to the rest of the contemporary world where family life has been continually eroding.

The typical Filipino couple's major concern is their children, their children's welfare, education and their future. In turn, their children care for their elderly parents in personal and sacrificing ways that are increasingly disappearing in many contemporary cultures. Such a deeply human family system as ours deserves to be enhanced and preserved not only for the sake of our own country but even for the sake of the rest of the world. It deserves the fullest support and protection from the State. Without such protection and support, we may inevitably capitulate to the powerful forces from without and witness the gradual collapse of our Filipino family system.

I would end this brief introduction by adverting to a new and significant dimension of the family as an agent of social change and its potential for the social transformation and development of society. Society and the State are, therefore, called upon to protect the rights of families to participate, in cooperation with other families, in concerted action in defense of its rights and responsibilities, in the development of society and in the planning, formulation and implementation of family policies and programs that affect them.

As we draft our new Constitution, we have this singular opportunity and responsibility to explicate our commitment to the Filipino family through safeguarding its inalienable rights and enhancing its total development in all spheres of life - social, economic, political and spiritual.

Mr. Presiding Officer, the original proposed article, the Article on Family Rights, consisted of many sections. However, many of these provisions have already been taken care of by the Articles on the Declaration of Principles, Social Justice and Education. So we have before us a very abbreviated proposed article which we hope the body will consider favorably this afternoon.

Section 1 reads as follows: "The State shall actively promote the total human development of the Filipino family."

Section 2 says:

The State shall defend the following:

a) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;

b) The right of all children to assistance and special protection from all forms of neglect, cruelty and exploitation;

c) The right of the family to a decent family living wage; and

d) The right of the elderly to family care, according to Filipino tradition.

I understand there is an amendment that Commissioner Gascon would like to add to Section 2.

MR. GASCON. Yes. As we can see in our tables, there is a proposal to move as the first subsections of Section 2 the following: THE INSTITUTION OF MARRIAGE AS THE FOUNDATION OF THE FAMILY." That would read, therefore: "The State shall defend the following: a) THE INSTITUTION OF MARRIAGE AS THE FOUNDATION OF THE FAMILY" and then go on with "b) The right of the spouses to found a family..." and then "c) The right of parents to educate their children... d) The right of family wage earners to a decent family living wage and e) The right of the elderly to be cared for within the family..."

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER. (Mr. Colayco). Commissioner de Castro is recognized.

MR. DE CASTRO. May I ask the committee a few questions "SECTION I. The State shall actively promote the total human development - social, economic, political, cultural and spiritual - of a Filipino family." What does it mean?

MS. NIEVA. I think in the previous discussions we have had on total human development, we meant all aspects of the social, economic, spiritual, intellectual, cultural life of the person and the family. In this case, it is the entire family.

MR. DE CASTRO. "Actively promote." What does it mean? Is there an inactive promotion?

MS. NIEVA. Would the Commissioner want to qualify that in another way? We would welcome his suggestion if he thinks "actively promote" is a redundancy.

MR. DE CASTRO. I am really having some difficulty.

Our civil law speaks of marriage as an inviolable social institution. Will that not be better than "the institution of marriage as the foundation of the family," or "the marriage as a social institution"?

MR. GASCON. We recognize that, Mr. Presiding Officer. In fact, if the Commissioner wishes to present during the period of amendments the term "social institution of marriage," I do not believe that the committee will object.

MS. NIEVA. The wording of the Civil Code on this is stated in Art. 216 which says: "The family is a basic social institution which public policy cherishes and protects."

MR. DE CASTRO. "Marriage is not a mere contract but an inviolable social institution," according to the Civil Code and I think that will be much better than "the institution of marriage."

MR. GASCON. There will be no objection, Mr. Presiding Officer, to that terminology.

MR. DE CASTRO. Now, on Section 2(d), "The right of the elderly to be cared for within the family ..." What does this mean, the elderly of the family?

MS. NIEVA. Yes, we are referring here particularly to them.

MR. DE CASTRO. They are members of the family.

MS. NIEVA. There is a trend in westernized countries where the tendency is to reject or send the elderly to old folks homes and such institutions because the economic or social setup in the community will not allow them to maintain their elderly in their own homes. Whereas, in the Philippines I think we would not think of that possibility of sending our aged parents to wither away in the loneliness of old folks homes and so forth.

MR. DE CASTRO. In Switzerland the elderly are given some help by the State instead of sending them to the homes for the aged, et cetera. And also the family takes care of the elderly. Does the Commissioner intend to include in the provision that the State shall care for the elderly?

MS. NIEVA. In cases where there would be such need. For example, there might be families who may not be in an economic position to properly take care of their elderly, since they themselves are in economic straits. Maybe that might envision in the future some kind of assistance from the State to help the families take care of their own elderly; and it will be even cheaper.

MR. GASCON. Mr. Presiding Officer, what we wish to discourage is the impersonal care being given to elderly people when they are sent to these old folks homes and forgotten by their families themselves, these basic families which they founded.

MR. DE CASTRO. When the Commissioner talks of elderly, How old is that? I am 74 years old, am I an elderly? Shall my children take care of me? Will the State? I am hearing some answers at the rear, but I do not hear the answer of the Commissioner.

MS. NIEVA. We are given some support from the floor.

It really depends. I think the Gentleman knows the kind of elderly people we are referring to here - the ones who are incapacitated and cannot take care of themselves.

MR. DE CASTRO. Is that answer relayed to the Commissioner by somebody on the floor?

MR. GASCON. Mr. Presiding Officer, when we speak of "elderly" these are those who are no longer as productive as they used to be in the family but have the right to the care from the family which they have supported for a long period of time. But at that point, when they can no longer support the family, I think the family, in turn, should look for ways and means to support them and the State should be encouraged to support families taking care of their elderly in the Filipino tradition.

THE PRESIDING OFFICER (Mr. Colayco). The Chair is giving a one-minute extension to Commissioner de Castro.

MR. GASCON. That is the point, Mr. Presiding Officer. When we speak of "elderly" here, they are those who have reached that stage in their lives when they can no longer support themselves and would, in fact, need support from their family.

MR. DE CASTRO. There is one thing more that I would like to ask the Chair. We are given three minutes, but actually my question lasts only less than a minute and the answer is much, much longer.

THE PRESIDING OFFICER (Mr. Colayco). That has been taken into account. Since the Gentleman started, five minutes has elapsed so I have deducted two minutes.

MR. DE CASTRO. Thank you.

I am not articulating with the committee, but certainly now by Filipino tradition, we are taking care of our elders. Does the Commissioner need to write that in the Constitution?

MS. NIEVA. We are not writing it for the present. As we say, the Constitution is for future generations also, and with the trend in the modern, urbanized world, the elderly are beginning to be set aside be-

cause they are no longer as helpful as before.

MR. DE CASTRO. Thank you, I think the Chair is having sharp eyes on me.

THE PRESIDING OFFICER (Mr. Colayco). Thank you.

MR. RAMA. I ask that Commissioner Nollo do be recognized.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Nollo do is recognized for three minutes.

MR. NOLLEDO. Thank you, Mr. Presiding Officer. Does the three-minute period include the answers of the members of the committee?

THE PRESIDING OFFICER (Mr. Colayco). No, it will be adjusted.

MR. NOLLEDO. Thank you. In Section 1, we talk of the Filipino family. What is the composition of the Filipino family?

MS. NIEVA. There are different models, I think.

MR. NOLLEDO. May I ask the Commissioner a more detailed question. Am I right if I say that we are adopting the provision of Article 217 of the Civil Code of the Philippines which states:

Family relations shall include those:

- 1) Between husband and wife;
- 2) Between parent and child;
- 3) Among other ascendants and their descendants;
- 4) Among brothers and sisters.

MS. NIEVA. Basically, yes, that would be the definition of a Filipino family.

MR. NOLLEDO. So the committee adopts the definition of the family as found in Article 217 of the present Civil Code?

MS. NIEVA. Yes, we do.

MR. NOLLEDO. With respect to the words "found a family" on Section 2 (a), and the words "in accordance with their religious convictions and the demands of responsible parenthood", is the Commissioner referring to procreation of children?

When the Commissioner talks of "found a family," she may be referring to procreation of children, am I correct?

MS. NIEVA. Yes, Mr. Presiding Officer, we are referring to that specifically.

MR. NOLLEDO. That the State shall defend the rearing of these children in accordance with religious convictions of the spouses and the demands of responsible parenthood, am I correct?

MS. NIEVA. Yes, Mr. Presiding Officer.

MR. GASCON. Mr. Presiding Officer, it would also mean that the State shall defend their primary right to determine how many children they wish to have, and there should be no law that will encourage the State to tell a family "you can only have one child or two children."



That is not the implication of this right of the family to found or the parents to found how many children they really want. That is why we have the term "in accordance with their religious convictions and the demands of responsible parenthood."

When we speak of "responsible parenthood," we mean to encourage them. When they decide to have so many children, it would also be dependent on their capability of sustaining such a family.

MR. NOLLEDO. And when you talk of children in Section 2, letter (b), do you refer to minors?

MR. GASCON. Yes.

MR. NOLLEDO. Or those under parental authority?

MS. NIEVA. Yes, definitely. I think we refer to all types of children. Even children born, perhaps, out of wedlock or children who are adopted; children who are orphaned. So, we are thinking of all children.

MR. NOLLEDO. Mr. Presiding Officer, with respect to Section 2(c), when the Commissioner talks of the right of the family to a decent family living wage, what does she mean by this? Is it employment by any member of the family by a third person?

MS. NIEVA. Yes. We are thinking in terms of a wage that will allow a family to live a decent human life. That means, with the necessary social services, housing, health, education and all the basic needs of a family.

MR. NOLLEDO. I think, Mr. Presiding Officer, we are aware of the principle that when children render services while they are minors, they need not be compensated.

MS. NIEVA. No, we are not referring to that at all; we are referring to employment by a third party.

MR. NOLLEDO. My last question is with respect to the Gascon amendment, just inserted now. It reads: "Sec. 2(e). The Institution of marriage as the foundation of the family in effect shall be defended by the State." Can the Commissioner give examples of the ways by which the State may defend the institution of marriage as the foundation of the family? Does it do away with divorce?

MR. GASCON. I guess it would discourage divorce. However, this will be subject to existing customary and traditional laws. In fact, it is to my knowledge that divorce is being practiced in, let us say, the Cordilleras or Muslim Mindanao.

MR. NOLLEDO. No, excluding Muslim Mindanao or the Cordilleras. Is Congress prevented from passing a divorce law with respect to Christian Philippines, if we adopt the provision that the State shall defend the institution of marriage as the foundation of the family?

MR. GASCON. What I mean when I encourage this proposal, "defend the institution of marriage," and if the proposal will be pushed through, "the social institution of marriage," is to emphasize that those who wish to marry and establish a family have the right to expect from society the moral, educational, social and economic conditions which will enable them to exercise their right to a mature and responsible marriage.

So, it is more a positive thing, that when we speak of defending the social institution of marriage, the society, must encourage marriage by insuring the other conditions which will help support the basic institution or social institution of marriage.

Furthermore, what would be emphasized is that marriage cannot be contracted, except by free and full consent; encouragement of these basic traditions which we connect with the term "marriage."

However, this is my personal opinion; I would personally discourage divorce in our culture.

MR. NOLLEDO. Does the provision outlaw live-in relationship? (Laughter)

MS. NIEVA. It certainly does not encourage this, because if we are going to encourage all kinds of unions, then we will have problems in society like the one of delinquent children and even major criminals, most of whom come from broken homes. Studies of psychologists and educators have really enough empirical evidence on this. So, I think we want to save society from the ravages of antisocial young people and adults who come from homes that were not really the kind of institution and environment that promote the well-being of people.

MR. GASCON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco). Is Commissioner Nolleddo through?

MR. GASCON. I would like to respond also to that. However, Mr. Presiding Officer, although this provision does not encourage that, it is also a reality that there are certain people who found families without the formalities of marriage not because of anything else but primarily because of socio-economic reasons. I was talking to Sister Christine Tan a while ago and she was mentioning to me that it is a reality that there is the poor, who cannot even go into formal marriage because of their socio-economic condition. But this provision does not wish to discriminate them but rather it merely emphasizes that the State must create a condition whereby marriage will prosper and flourish even among the poor. But, of course, when we speak of this, it is not meant to discriminate or to antagonize those who come from the poorer classes of society. That is the intention, Mr. Presiding Officer.

MR. NOLLEDO. Thank you, Mr. Presiding Officer.

MR. SUAREZ. Mr. Presiding Officer, may we be recognized?

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Suarez is recognized.

MR. SUAREZ. Thank you. We will not address the interpellations to the members of the committee but will the Honorable Nolleddo oblige with a few questions?

MR. NOLLEDO. Mr. Presiding Officer, with pleasure.

MR. SUAREZ. Mr. Presiding Officer, we are family men and I assure that we are both interested in maintaining the solidarity of the family.

MR. NOLLEDO. If we can help it.

MR. SUAREZ. Yes, subject to that exception. Now, because the Commissioner cited Article 217 of the Civil Code as descriptive of the family institution, may I call the Commissioner's attention to the preceding article, Mr. Presiding Officer, Article 216, which is wonderfully worded. May I read it, Mr. Presiding Officer? It says, "The family is a basic social institution which public policy cherishes and protects" and that is also the thrust in the Article on Family Rights. Does the Commissioner agree with me, Mr. Presiding Officer?

MR. NOLLEDO. I agree with Commissioner Suarez, Mr. Presiding Officer.

MR. SUAREZ. The Commissioner enumerated the instances in Article 217 of the new Civil Code which covers what would be relevant to family relations. May I call the Commissioner's attention also to Article 218, which reads:

The law governs family relations. No custom, practice or agreement which is destructive of the family shall be recognized or given any effect.

The Commissioner will find that very effective and all-covering, Mr. Presiding Officer.

MR. NOLLEDO. Yes, but that provision is no longer absolutely true in view of the constitutional provision that indigenous customs and traditions should be respected by the State and in view of the passage of the decree of Mr. Marcos on Muslim personal law where divorce is recognized.

MR. SUAREZ. So, the Commissioner feels that it should go beyond this provision appearing under Article 218, that is why the Commissioner is in favor of a constitutional precept governing family rights? Is this why mention was made regarding the problem involving the indigenous personal relations, traditions or customs, Mr. Presiding Officer?

MR. NOLLEDO. Yes, Mr. Presiding Officer. Even under the 1973 Constitution there is a similar provision enjoining the State to protect the indigenous customs and traditions.

MR. SUAREZ. Now, let me go to another article which is Article 219, and it reads:

Mutual aid both moral and material shall be rendered among members of the same family. Judicial and administrative officials shall foster this mutual assistance.

Does the Commissioner think this has to be covered by another constitutional provision?

MR. NOLLEDO. Yes, I think that can be adequately covered by Section 2 of the report of the Committee on Human Resources on family rights, Mr. Presiding Officer, because of the introductory part which says, "The State shall defend the following," and the wordings below sufficiently cover Article 219 of the Civil Code.

MR. SUAREZ. Referring to "mutual aid" among members of the same family.

MR. NOLLEDO. Like for example "the right of the elderly to family care" and "the right of children to assistance and the special protection." I understand that the word "protection" here should also cover protection from the family.

MR. SUAREZ. Let me call your attention finally to the provisions of Article 220 of the same new Civil Code, reading:

In case of doubt, all presumptions favor the solidarity of the family. Thus, every intendment of law or facts leans towards the validity of marriage, the indissolubility of the marriage bonds, the legitimacy of children, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression.

Does the Commissioner think this is also covered by Section 2 of the proposed Article on Family Rights?

MR. NOLLEDO. I think this should be covered because of the words "shall defend," especially in relation to the amendment of Commissioner Gascon, the institution of marriage as the foundation of the family.

In addition to his observation, Mr. Presiding Officer, I would like to state that really there is an intendment of the law towards the validity of marriage, because even in legal separation, if he will remember, both of us are lawyers, there will be a suspension on the proceeding, a "cooling off" period. I think the State is not receptive to the petition for legal separation, and the State will exert all efforts towards a compromise, if he remembers. And if refers to Article 222 of the Civil Code which he is now holding, it states:

No suit shall be filed or maintained between members of the same family unless it should appear that earnest efforts toward compromise have been made, but that the same have failed, subject to the limitations in Article 2035.

MR. SUAREZ. Thank you. My last question is: This chapter is captioned "THE FAMILY AS AN

INSTITUTION" and enumerates Articles 216 to 222. Does the Commissioner feel that in spite of these codal provisions, we need a constitutional declaration of principle of some sort?

MR. NOLLEDO. I feel so, Mr. Presiding Officer, because I think we have to underscore the importance of the family as a basic social institution and that importance must be raised to the level of a constitutional provision.

MR. SUAREZ. Thank you for clarification, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer, may I ask that Commissioner Bernas be recognized.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Bernas is recognized.

FR. BERNAS. Just one question, and I am not sure if it has been categorically answered. I refer specifically to the proposal of Commissioner Gascon. Is this to be understood as a prohibition of a general law on divorce? His intention is to make this a prohibition so that the legislature cannot pass a divorce law.

MR. GASCON. Mr. Presiding Officer, that was not primarily my intention. My intention was primarily to encourage the social institution of marriage, but not necessarily discourage divorce. But now that he mentioned the issue of divorce, my personal opinion is to discourage it, Mr. Presiding Officer.

FR. BERNAS. No. My question is more categorical. Does this carry the meaning of prohibiting a divorce law?

MR. GASCON. No, Mr. Presiding Officer.

FR. BERNAS. Thank you.

MR. RAMA. May I ask that Commissioner Quesada be recognized.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Quesada is recognized.

MS. QUESADA. Thank you, Mr. Presiding Officer.

In the Commissioner's revised formulation, he did not spell out the areas of total human development, but in the previous formulations, he included "spiritual development of the Filipino family." Just exactly how does he envision the State's actively promoting the spiritual development of the Filipino family?

BISHOP BACANI. There is already a constitutional provision, for example, through the educational system regarding the development of moral character, the instilling of ethical and moral values. There is also a provision in our Constitution for optional religious instruction. And then there is the general provision for freedom of worship and religion. The maintenance and safeguarding of this will be ways by which the spiritual development of the family is promoted.

MS. QUESADA. But it is with the understanding that the State shall not impose on the family the choice of how they will develop the family spiritually.

BISHOP BACANI. No, I do not think that that is the contemplation at all, that there will be a definite mode by which this spiritual development will be promoted.

MS. QUESADA. Another question would be the choice of the word "defend" instead of the words "promote, protect, encourage," which we have been using in the past. Why was the choice for the term "defend" used in Section 2?

MS. NIEVA. We were thinking in terms of defending these rights against encroachment of forces that would work against the welfare of the family. We can always add the words "enhance" or "promote." We would welcome whatever amendments the Commissioner may want to make to strengthen this provision.

MS. QUESADA. Yes, I was thinking of more positive terms instead of "defending" because "defending" seems to imply that there is an assault on the rights of the family.

MS. NIEVA. While the family we contend is the victim of assault in many ways, we do not necessarily cling to the use of the word "defend."

MS. QUESADA. So the Committee will be amenable to possible amendments?

MS. NIEVA. We will be very open to a more positive term, if the Commissioner wants.

MS. QUESADA. Now on Section 2(b), it is stated: "the right of spouses to found a family in accordance with their religious beliefs and convictions..." Why is the right of spouses limited to found a family in accordance with their religious convictions? Are there not any other considerations in the exercise of this right?

MS. NIEVA. Yes, there are, the educational rights and all the other rights, but we were hesitant to be accused of being repetitious, therefore, we did not want to include the other basic rights that belong to the family. But if the Commissioner has a formulation that would include this and would be acceptable to the body, we would be very glad to accept such an amendment.

MS. QUESADA. Yes, because by spelling out only the religious convictions as the basis of this right of spouses to found a family and also the demands of responsible parents, some other considerations which have been spelled out are not included. So, maybe there is a need to amend this formulation.

MS. NIEVA. Yes, we adhere to that, but we were at a loss as to how to include the other important aspects without being accused of redundancy.

MS. QUESADA. My third question is on the ideas of the kind of assistance that the children have the right to receive from the State.

MS. NIEVA. I think this would include educational, physical, moral, health care and all aspects of the development of children.

BISHOP BACANI. There is one proposed amendment which has been submitted to us about the type of assistance that can be given, and it says: "CHILDREN SHALL HAVE THE RIGHT TO PROPER CARE, NUTRITION, A RELEVANT NON-SEXIST AND QUALITY EDUCATION, AS WELL AS PROTECTION FROM EXPLOITATION AND MENTAL AND PHYSICAL ABUSE."

MS. QUESADA. Yes. I was wondering if we could spell this out since we would like people to know just what kind of support children should have instead of just affording special protection against neglect, cruelty and exploitations. Maybe, we could be more explicit in the kind of assistance we should give to the children.

MR. VILLACORTA. Mr. Presiding Officer, as a matter of fact, several Commissioners are proposing that in lieu of "assistance," we place "PROPER CARE AND NUTRITION" to be more explicit.

MS. QUESADA. Yes. When the time comes maybe we could work out a formulation. And, finally, I was wondering why there is no mention of any right of women and girls in the family which should be strengthened in this particular section. I am thinking particularly of how women, the wife or the girls in the family, may be freed from the role that has been traditionally assigned to them, to take care of tasks which the male members of the family, for example, do not share, like cooking, housekeeping and even taking

care of the children. These have been relegated through all these years to women. So, would the committee be amenable to a resolution or a provision that would try to liberate our women and girls in the family from the bondage of these domestic roles?

BISHOP BACANI. We will consider that, Mr. Presiding Officer, but remember the provision regarding the fundamental equality of men with women or of women with men that has already been passed by the Commission. And I was telling Commissioner Nieva that the group of Mrs. Shahani, when they came here, was objecting precisely to the putting of the provision on the equality of women within the context of the family. I do not know for what reason.

MS. QUESADA. Yes. I would think that it would be not just that. It would be an equal right of boys and girls, members of their family to learn some of the basic things that would make the family more cohesive and share in the responsibility of parenthood and of bringing up a wholesome family life. So it is not really in the context of just girls but I suppose that men and boys in the family should also be given a reorientation in the roles. This is one area which I think has been overlooked because we have accepted this as a tradition that should not be changed.

MS. ROSARIO BRAID. So the Commissioner can propose an amendment to that effect when the time comes. That is right.

MS. QUESADA. Yes. So when the time comes, we shall introduce some amendments.

MS. ROSARIO BRAID. Yes, Mr. Presiding Officer.

MS. QUESADA. That is all that I have to ask, Mr. Presiding Officer.

MS. ROSARIO BRAID. Thank you.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco). The Floor Leader is recognized.

#### SUSPENSION OF SESSION

MR. RAMA. I move that we suspend the session for a few minutes.

THE PRESIDING OFFICER (Mr. Colayco). Is there any objection? (Silence). The Chair hears none; the motion is approved.

The session is suspended.

It was 4:53 p.m.

#### RESUMPTION OF SESSION

At 5:23 p.m., the session was resumed.

THE PRESIDING OFFICER (Mr. Colayco). The session is resumed.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Tingson be recognized to interpellate for three minutes.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Tingson is recognized.

MR. TINGSON. Mr. Presiding Officer, my two or three questions would only be directed to the bachelor member of the committee who, of all people, and I am happy for that, thought of adding the very important amendment, the institution of marriage as the foundation of the family. Mr. Presiding Officer, Commissioner Gascon, of course, agrees with what the Scriptures say that marriage is an honorable thing and that it is truly the foundation of a successful, happy, fulfilled family. Does the Commissioner agree?

MR. GASCON. Yes, Mr. Presiding Officer.

MR. TINGSON. Mr. Presiding Officer, does the Commissioner look forward to participating in this very important and sacred institution known as marriage?

MR. GASCON. Not necessarily, Mr. Presiding Officer, I am still contemplating on my proper vocation.

MR. TINGSON. I see. I am warning the Commissioner of something that is irresistible for a good-looking Commissioner like him. However, it is not a warning; it is more of an advice that it is an honorable thing to get into. I am just wondering, Mr. Presiding Officer, about the title of this Article, "Family Rights." Can we not make this "Family Rights AND RESPONSIBILITIES"? It seems to me that we should inculcate in the minds of the husbands and the wives and the members of their family that we do enjoy rights, but that those rights will be meaningless without our fulfilling our respective responsibilities. Would it not be better if we reformulate the short article and somehow include along with rights, responsibilities?

MS. NIEVA. I do not see any objection to that except that when we would have to probably reformulate the whole section to include all the different responsibilities of the family and that might be unwieldy.

Do we have a quorum?

MR. TINGSON. Mr. Presiding Officer, if we do come to the conviction that truly there ought to be responsibilities along with rights, I think this particular article on family would be more meaningful to us.

Back to our bachelor Commissioner, I am sure we all agree with the statement which says: "no success elsewhere could ever compensate for failure at home." Is that the reason why the Commissioner states that the institution of marriage is the foundation of the family?

MR. GASCON. What the Commissioner just read was with regards to that principle of encouraging the firmness of the family and I personally believe that marriage encourages a strong family although there have been also instances where families which were not founded on marriage have been successful. But I agree with the Commissioner's statement fully, Mr. Presiding Officer, that there is a lot of merit in developing values and proper perspectives in the family which would be beneficial to society in the long run.

MR. TINGSON. Did I get the Commissioner right, Mr. Presiding Officer, when he said there are happy families that are not founded on marriage?

MR. GASCON. There may be, Mr. Presiding Officer. However, as I said, marriage as an institution encourages the development of a strong and firm family.

MR. TINGSON. But certainly, the amendment here which says: "the institution of marriage as the foundation of the family," is a positive suggestion that the family should be based on people who are married to each other, man and wife, and not just living together without the sanctity of marriage.

MR. GASCON. Yes, Mr. Presiding Officer.

MR. TINGSON. Now, finally, I heard Commissioner Maambong tell a story to some of us the other day and I wonder if the Commissioner agrees that he and his wife, since they were married, have never quarreled because, according to Commissioner Maambong, before they got married, he had an understanding with

his wife that all minor decisions will be exclusively the right of the wife and all major decisions will be his. Does the Gentleman agree with what he said that minor decisions mean how many children to raise and what house to buy, and how much bank account to put in the bank, the education of their family - those are all minor decisions according to him and he does not interfere with his wife. Then we asked him what major decision means? "Well," he said, "my exclusive privilege is to decide whether the Philippines should join the United Nations and whether there should be martial law again and so forth and so on." But probably, he was just telling a joke. But the point is, does the bachelor Commissioner think that real good marriages are based on respect for each other and, if possible, taking nothing so seriously but making the wife smile now and then and the husband do the best that he can - as the head of the family, to provide adequately?

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco). The Floor Leader is recognized.

MR. RAMA. May I remind Commissioner Tingson that his three-minute time was up five minutes ago.

MR. TINGSON. I submit, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco). Thank you very much.

MR. GASCON. Mr. Presiding Officer, may I respond to that. Basically, I believe that one of the basic things that we should encourage in the development of a family is love and partnership, and I think the success of a family is based on that - the proper values encouraged within the home.

THE PRESIDING OFFICER (Mr. Colayco). Mr. Floor Leader, who is the next speaker?

MR. RAMA. May I ask that Commissioner Bennagen be recognized.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Bennagen is recognized.

MR. BENNAGEN. Thank you, Mr. Presiding Officer. I just would like to ask a few questions. May I know the understanding of the committee on the word "marriage," since there seems to be a premise here that that is left unstated?

MS. NIEVA. Generally, I think the accepted definition of marriage is the union of a man and a woman.

MR. BENNAGEN. Is that the same thing as the folk norm of "nagsama sila"?

MS. NIEVA. I think not. We are not defining marriage as just an agreement between the two spouses without the State's sanction.

MR. BENNAGEN. In other words, in terms of the state's defense of the right, all marriages that are not subject to religious or legal rituals are not part of this defense by the State?

MS. NIEVA. Mainly we are talking here of marriage as generally known, yes.

MR. BENNAGEN. Is that forcing all spouses to undergo a certain legal or religious ritual but not folk ritual as in the concept of "nagsama"?

MS. NIEVA. No. In order to receive protection of the State, I think not.

MR. BENNAGEN. Is the assumption that only marriages through legal and religious rituals can be successful marriages?



MS. NIEVA. We are saying that, in general, marriages are founded on the full consent of spouses.

MR. BENNAGEN. Is it not merely a Christian, middle-class bias?

MS. NIEVA. We are saying that other cultures may have other traditional models of marriage and family life, and we respect them.

MR. BENNAGEN. May I know what the committee means by "religious convictions"?

MS. NIEVA. Let us take the Catholic viewpoint. We do not believe that the State has the right to dictate the number of children and impose a certain method by which one can maintain the number of children in a family.

MR. BENNAGEN. Does religious conviction include convictions of animists and pantheists?

MS. NIEVA. If that is their faith, if that is what they firmly believe in, I suppose that is their firm religious conviction and the State should respect that.

MS. NIEVA. Provided it is not against the law.

MR. BENNAGEN. Given the idea of "promoting" and "defining," what could be expected by the family from the State? And what if the State cannot meet these expectations?

MS. NIEVA. What we are saying is that the State should exert efforts to promote or defend these goals in the same way that in social justice and in education we had all these provisions that we said the State should promote.

MR. BENNAGEN. For instance, a very recent study by the Center for Research and Communications, headed by Commissioner Bernardo Villegas, claims that the threshold wage of a Metro Manila family is around P5,868 per month.

MS. NIEVA. Yes. When we are thinking of the right of the family, we are not saying here that it is only one wage earner who should earn enough to maintain the whole family.

MR. BENNAGEN. Yes. Even given that, considering the annual income or monthly income of Filipino families, what can families below this wage bracket do in relation to their claims on the State, assuming that this is passed?

MS. NIEVA. I think we take this in the same way we take the provisions on labor, that there should be all of these just remunerations. What can labor do if they do not receive these just wages?

MR. BENNAGEN. I think that is a different case because if one is a laborer, then that laborer can make claims on capital. But this one is the right of the family to a decent family living wage. And it is the State which is expected to defend that right.

MS. NIEVA. To defend or to promote, I think what we want here is to emphasize that the families have a right to live decent human lives.

MR. BENNAGEN. I think there is no problem about that.

MS. NIEVA. Therefore, the State should do everything in its power to help the family achieve that goal.

MR. BENNAGEN. What if the State cannot meet that?

MS. NIEVA. I do not think we are giving any sanctions here; we are not providing for any sanc-

tions from the State.

MR. BENNAGEN. Will this not set into motion a kind of revolution of rising expectations?

MS. NIEVA. I think, then we can apply the same argument that the Gentleman is giving.

MR. BENNAGEN. Yes, but this is a family making claims on the State. When we speak of labor, it can claim its right in relation to capital.

MS. NIEVA. What we mean is that the family can claim just as students can claim free tertiary education when the State cannot afford. We were saying that this will be all dependent on what the State has in its power to provide.

MR. BENNAGEN. Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Colayco). Thank you.

MR. RAMA. Mr. Presiding Officer, the next registered speaker is Commissioner Ople, but he has graciously waived his right at the request of the Floor Leader because he said he would like to shorten the proceedings, and maybe because three minutes is not enough for the usual Ople utterance. So, thank you, Commissioner Ople.

May I call on Commissioner Rosario Braid to ask two or three questions.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Rosario Braid is recognized.

MS. ROSARIO BRAID. Mr. Presiding Officer, I think one of the basic decisions we have to make is whether this will be a full article or whether these will be provisions under one of the articles, which will also determine the kind of amendments we will make whether to expand it and to come up with the more amplified omnibus provision.

And so, with this, can I just ask a few questions. I suppose in Section 1, "total human development" means here that we acknowledge the family as the basic social institution; that it would provide the moral, intellectual foundation, orientation for a fully developed personality; that it is also the stronghold of emotional stabilization in addition to material and physical needs.

If this becomes an article, I hope that it could look at the values that we want to preserve as well as the values that we would like to reorient.

For instance, we find that if we have to move to some of the desired goals as found in our Preamble and the other provisions, we must be able to honestly look at some of the values that we would like to reorient or restructure. For instance, the rigidity in family roles in terms of husband-wife relationship which leads sometimes to even lack of communication between husband and wife, where one is relegated to particular responsibilities or work spheres; or letting the school undertake the entire socialization process. The parents say: "let the school do the teaching." Or in middle class families: "let the yayas do all the socialization."

Also, the closeness in family ties or solidarity which we all take pride in could also be a negative value, when it fosters nepotism in the business sphere.

So that while we welcome unity and stability and familialism, we must make sure that at some point, we promote independence, self-reliance and objectivity. Because in the final analysis all these problems we talk about in terms of graft and corruption are really extension of negative values in the family.

Since we have recognized women's equality, we must begin to monetize women's value as housekeepers. I think women would like to see monetized value on their contributions to the home.

Lastly, Mr. Presiding Officer, I hope the question of whether this will be a full article will be resolved..

MR. GASCON. Mr. Presiding Officer, my personal opinion, I think, is shared by the other members of the committee. The issue of the family deserves the due recognition of this body through, perhaps, the institutionalization of an article on family rights; that as much as we have established already the institutions - the governmental institutions of the Judiciary, the Legislative, the Executive - we should also recognize very clearly the family as a basic social institution which is the basis for other institutions - governmental or private.

MS. ROSARIO BRAID. Yes.

MR. GASCON. The issue is the recognition of that basic social institution of the family and its contribution to society.

MS. ROSARIO BRAID. I would agree. Therefore, could we accommodate not only just rights but also some desired reorientation and direction in education and other areas of concern, particularly value orientation?

MS. NIEVA. We would welcome suggestions or amendments, Mr. Presiding Officer.

MS. ROSARIO BRAID. Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer, before we close the period of sponsorship and debate, I ask that Commissioner Maambong, the last speaker, be recognized to ask two questions.

THE PRESIDING OFFICER (Mr. Colayco). Commissioner Maambong is recognized.

MR. MAAMBONG. Mr. Presiding Officer, my name was mentioned by Commissioner Tingson. I did tell the story which he retold to the Commission. But I cannot claim paternity to the story; it was only told to me by a happily married friend.

Mr. Presiding Officer, my main concern in this family rights is only to make sure that whatever we say here will not conflict with the Civil Code.

For example, under Section 1 we say: "promote total human development." As stated already by Commissioner Suarez and Commissioner Nolleto, in all the provisions of the Civil Code, the thrust of the Civil Code is always towards solidarity. And I would suggest that perhaps we can incorporate that in Section 1.

Just to prove this point, may I state that under our Civil Code, in violation of the freedom of contract, two married people cannot enter into a contract for legal separation. They cannot even dissolve the conjugal partnership of gains.

In the case of annulment or an action for legal separation, this is the only case that I know of - a civil case, where the fiscal is duty bound to go to court in order that there will be no collusion between the parties. And that proves that the thrust of the Civil Code is on solidarity.

Second, Commissioner Gascon formulated this provision - "the institution of marriage as the foundation of the family."

I would like to call the Commissioner's attention, however, that under the Civil Code, it is not the institution of marriage which is being defended by the Civil Code; it is marriage as an inviolable social institution, under Article 52. So, it is a matter of rewording it.

Finally, we have here several rights under Section 2. I would just like to call the attention of the com-

mittee that when we speak of rights, there are supposed to be corresponding duties. And I cannot relate the rights to duty. For example, the right of children to assistance, against whom shall children have the right to assistance?

We can settle this later on, but in the Civil Code we have all the rights under parental authority, under care, education of children and so forth. Probably, when we go to the particular rights, we can also particularize who the persons are who will be duty bound or liable for these rights.

Thank you.

MS. NIEVA. Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer, I move that we close the period of sponsorship and debate.

THE PRESIDING OFFICER (Mr. Colayco). Is there any objection (Silence). The Chair hears none; the motion is approved.

#### ADJOURNMENT OF SESSION

MR. RAMA. Mr. Presiding Officer, many of those who interpellated would like to have some time to formulate their amendments, particularly Commissioner Rosario Braid. I move that we adjourn the session until tomorrow.

THE PRESIDING OFFICER (Mr. Colayco). Is there any objection? (Silence). The Chair hears none; the session is adjourned until nine-thirty, tomorrow morning.

It was 5:44 p.m.

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