

Document

**PROCEEDINGS OF THE CONSTITUTIONAL COMMISSION
ON THE FAMILY, 1986 (PART II)**

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.**

* 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)**

Conclusion

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.

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| (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.) FRANCISCO A. RODRIGO
Member | (Sgd.) CHRISTINE TAN
Member |
| (Sgd.) CIRILO A. RIGOS
Member | (Sgd.) FLORANGEL ROSARIO BRAID
Member |

September 25, 1986

PERIOD OF AMENDMENTS

MR. RAMA. I move that we continue consideration of the Article on Family Rights.

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

The Members of the committee are requested to take the center table.

MR. RAMA. We are now in the period of amendments. May I ask the chairman and the members of the committee to please take their seats in front.

SUSPENSION OF SESSION

MR. RAMA. Mr. Presiding Officer, may I ask for a suspension of the session to allow those who wish to propose amendments to confer with the committee chairman?

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any objection? (Silence). The Chair hears none; the session is suspended.

It was 10:14 a.m.

RESUMPTION OF SESSION

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

MR. RAMA. Mr. Presiding Officer.

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

MR. RAMA. I ask that Commissioner Nieva, the committee chairman be recognized.

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

MS. NIEVA. There are two possible formulations for Section 1 that the committee would be willing to accept.

The first is from Commissioner Davide that says: "THE STATE RECOGNIZES THE FILIPINO FAMILY AS THE FOUNDATION OF THE NATION. ACCORDINGLY IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT."

The alternative is the one presented by Commissioner Suarez: "THE STATE SHALL STRENGTHEN THE FAMILY AS A BASIC SOCIAL INSTITUTION AND SHALL PROMOTE AND PROTECT THE SOLIDARITY OF THE FAMILY."

I think the committee would agree to the Davide amendment which includes the Suarez amendment except for the additional phrase "PROMOTE ITS TOTAL DEVELOPMENT" which the committee would like to maintain.

So, the section would read: "THE STATE RECOGNIZES THE FILIPINO FAMILY AS THE FOUNDATION OF THE NATION. ACCORDINGLY IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT."

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any comment on that?

The Floor Leader is recognized.

MR. RAMA. May I ask Commissioner Davide to explain and elaborate on that proposal?

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

MR. DAVIDE. I suggested this proposal, Mr. Presiding Officer, to emphasize the indispensable role of the family consonant with what we have adopted in the Declaration of Principles which states to the effect that:

The State values the sanctity of family life and shall promote the family as a basic social institution.

The family referred to is the Filipino family and necessarily in the light of the concept mandated in the Declaration of Principles, it is in fact the foundation of society, the foundation of the nation. Without a strong family there cannot be a strong nation. So, necessarily the State shall have the duty then to strengthen the solidarity of the family, and as originally proposed by the committee, it should also actively promote its total development. The solidarity and strength of the family is also the solidarity and strength of the nation; hence, the proposal. And Commissioner Maambong is a co-author of this, especially the word "SOLIDARITY."

MR. RAMA. Commissioner Ople would like to present another amendment.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Ople is recognized.

MR. OPLE. Thank you very much, Mr. Presiding Officer.

I would like to present a proposed omnibus amendment on family rights and responsibilities.

THE PRESIDING OFFICER (Mr. Rodrigo). Is this an amendment to the amendment?

MR. OPLE. It is an omnibus amendment to a prior amendment by Commissioner Davide.

MR. DAVIDE. Mr. Presiding Officer, my amendment is on Section 1.

MR. OPLE. Yes, this is an omnibus amendment by substitution, so may I give way to Commissioner Davide and the committee with respect to that amendment on Section 1. But may I receive the right, Mr. Presiding Officer, to rise afterwards in order to present this proposed omnibus amendment.

Thank you.

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

MR. MAAMBONG. Mr. Presiding Officer, do I understand from the committee that the acceptable proposal of Commissioner Davide, which is the main proposal, is the one accepted, because he has two proposals - one is the main and the other is the alternative proposal?

MS. NIEVA. Yes, the first proposal would also incorporate the amendment of Commissioner Suarez.

MR. MAAMBONG. Yes, Mr. Presiding Officer, so what is acceptable now to the committee? Is it this alternative proposal?

MS. NIEVA. No, the first.

MR. MAAMBONG. And this would read: "THE STATE RECOGNIZES THE FILIPINO FAMILY AS THE FOUNDATION OF THE NATION. ACCORDINGLY IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT."

MS. NIEVA. Yes.

MR. MAAMBONG. I am glad that "SOLIDARITY" has been accepted. This was the point I raised last night in the period of sponsorship and debate, but I would just like to interject another concept in the Civil Code which describes the family.

Under Article 216, the Civil Code provides that the family is a basic total institution. I wonder if we can insert the words "AS A BASIC TOTAL INSTITUTION" to realign this provision with the Civil Code provision. I am not constitutionalizing the Civil Code; I am just saying that I am trying to put in the concept as stated in the Civil Code so that we will have no misunderstanding later on that our Constitution goes against the concept already accepted by the Civil Code. So, probably, it would come in after the last word "DEVELOPMENT" - "ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT AS A BASIC TOTAL INSTITUTION."

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

MR. DAVIDE. That particular precept or concept is already included in the Declaration of Principles. So, if I remember correctly, the particular provision of the Declaration of Principles is to this effect:

The state recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution.

MR. MAAMBONG. In that case, Mr. Presiding Officer, I withdraw my proposal. But I just want to indicate that if Commissioner Davide is quoting it rightly, the Civil Code says: "basic total institution." It is marriage which is the social institution, while the family under the Civil Code is a total institution. I really do not know what the distinction is but that is the wording of the Civil Code.

MR. DAVIDE. If I remember correctly, it is "social" also. Anyway, it really is the totality. It is the foundation of society. It is the foundation of the nation. But in any case, as an institution, it is recognized in the Declaration of Principles.

THE PRESIDING OFFICER (Mr. Rodrigo). Since there is no proposed amendment to the

amendment, is the body ready to vote on the amendment of Commissioner Davide? The chairman will please read the proposed amendment again.

MS. NIEVA. This is the way the first section would read then: "THE STATE RECOGNIZED THE FILIPINO FAMILY AS THE FOUNDATION OF THE NATION. ACCORDINGLY IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor of the amendment, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 23 votes in favor, none against and 1 abstention; the proposed amendment is approved.

MR. RAMA. Mr. Presiding Officer, to amend Section 2, I ask that Commissioner Ople be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Ople is recognized.

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

Actually in the reservation that I made, I manifested the intention to submit an omnibus amendment which deals, of course, with the entire draft article including Sections 1 and 2. This proposal reads as follows, so that there is only one section: "SECTION 1. THE FAMILY EXISTS AS A MATTER OF NATURAL RIGHT WHICH SHALL BE RESPECTED BY THE STATE, MARRIAGE, AS A SACRAMENTAL RIGHT AND DUTY, IS THE FOUNDATION OF THE FAMILY."

"THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION, IN WHICH MAN AND WIFE ASSUME THE PRINCIPAL RESPONSIBILITY FOR DOMESTIC HARMONY, INTEGRITY AND DEVELOPMENT AND OF THE TUTELAGE OF CHILDREN ESPECIALLY IN CHARACTER AND CITIZENSHIP FORMATION."

"THE STATE SHALL DESIST FROM REGULATING FAMILY LIFE EXCEPT TO THE EXTENT THAT ITS SOCIAL RESPONSIBILITIES RIPENING INTO PUBLIC INTEREST ARE INVOLVED."

"THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH JUST SCHEMES OF SOCIAL SECURITY."

May I take just a minute to explain this proposal, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo). May the Chair propound a question, Commissioner Ople? This is an omnibus amendment. If this amendment should be approved, will it result in the deletion of the amendment proposed by Commissioner Davide which the body just approved?

MR. OPLE. Mr. Presiding Officer, I will abide by committee's recommendation on the final disposition of this amendment if it or any parts thereof prove acceptable. But may I now proceed, Mr. Presiding Officer, just to give a one-minute explanation of this proposal?

THE PRESIDING OFFICER (Mr. Rodrigo). The Gentleman may proceed.

MR. OPLE. Thank you.

In ancient as well as in modern times, the great issue between family and state has always been the freedom of the family from state regulation and interference. Thus, in totalitarian states, the family is mobilized to serve the purposes of the state, often resulting in direct intrusion into the privacy of the family and its co-optation into state programs as an institution.

In the present committee formulation of family rights, the family is literally handed over to the State for its ultimate disposition in the guise of caring for the family, the children and the elderly. This is also how state control of the family is presented and justified in totalitarian societies where the state's ubiquitous interference is a day-to-day reality and the family as an institution becomes subservient to its aims - not all of them legitimate, much less disinterested and noble.

And may I just say that one of the features of fascism in World War II was precisely this heavy-handed interference of the totalitarian rulers in the autonomy of the family. In the name of eugenics, the Hitler regime in Germany before World War II automatically claimed the so-called unfit members of a family so that they may be eliminated, especially those inheriting physical deformities and mental deformities, because they threatened the superiority of the Arian race on which a whole state philosophy was founded. We also know that there are totalitarian societies today where children are recruited into state-sponsored organizations so that they can spy on their own parents. I hope that we are not confronting today, with this article, the specter of such an overwhelming state dominance of the family institution.

Mr. Presiding Officer, in the Christian or Muslim home where democracy exists, the most valued right of the family is the right to privacy and autonomy from all centers of political power. Between husband and wife, there is a sort of constitutional government. But between the parents and the children, there exists a line of authority; it is taken for granted that during the years of incompetence and maturation of the children, the parents command them. But this is different from the state commanding its citizens or the king commanding his subjects. In this context, the one commanding, that is, the father or the mother, is more keen in promoting the welfare of the one commanded. In the Filipino culture, parents will do almost everything and forego every benefit to themselves for the sake of their children.

In this Constitution, therefore, Mr. Presiding Officer, it is necessary that we shift the focus of our

concern from an overpowering state protection and dominance because that is the consequence of protection. And dominance of the family towards the family's autonomy in the spirit of dignity and genuine liberty in turn becomes the essential climate of the total development of the family.

I request the committee's kind consideration of this proposal, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). What does the committee say?

BISHOP BACANI. May I reply on behalf of the committee, Mr. Presiding Officer.

First, let me say that we are really in basic sympathy with what is stated in the first part of the first sentence: "The State shall respect the family as an autonomous social institution." That is also what we want.

We regret to say we cannot agree that the article, as it is presented at present, fosters the dominance of the State over the family. And dominance is not a necessary consequence of protection. We are asking that the State defend the following and then we enumerate the rights. Since the family is a basic social institution, indeed as we say in Section 1, it is the foundation of the nation, then the State has the duty to protect it, just as it has the duty to protect even lesser institutions within the State.

Here, the understanding is, while this is asked of the State, the principle of subsidiarity that what can be accomplished by a lower body should not be arrogated to itself by a higher body should also be operative in this regard.

At present in the Philippines, we do not see state dominance of the family, at least on a big scale. But this article certainly does not aim to foster that state dominance. And so, we would agree that the family should become autonomous, not that it becomes a completely self-sufficient body in itself, but that the freedom and dignity of the family should be safeguarded, and that is what we are trying to do.

MR. OPLE. I want to thank Commissioner Bacani for that clarification. I would then like the Chair's consent so that this proposed omnibus amendment can be transformed into an amendment to Section 2. I will abide by the Committee's discretion on what portions of this proposal can be retained or can be adopted in Section 2, especially in the light of Commissioner Bacani's manifestation and the manifestation earlier made to me by Commissioner Maria Teresa Nieva that the provision here concerning the autonomous character of the family will be acceptable to the committee.

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. May I propound a question regarding the first section of this omnibus amendment, Mr. Presiding Officer?

MR. OPLE. Yes, gladly.

BISHOP BACANI. I understand most of the sentences of the section, except the second sentence which states: "MARRIAGE AS A SACRAMENTAL RIGHT AND DUTY IS THE FOUNDATION OF THE FAMILY." I am just wondering. For me as a Catholic, these words "SACRAMENTAL RIGHT AND DUTY" have a definite connotation. But I suppose that is not what the Gentleman meant by "SACRAMENTAL" here.

MR. OPLE. This is, I suppose, a paraphrase of what Commissioner Gascon introduced yesterday in the draft article, "MARRIAGE AS THE FOUNDATION OF THE FAMILY," and I used "SACRAMENTAL RIGHT AND DUTY" in a layman's manner conveying the idea of some sanctity to the institution of marriage, at least, in the light of what I believe to be the position of most or numerous churches in the country concerning this.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bengzon is recognized.

MR. BENGZON. I would like to speak against the proposed amendment, Mr. Presiding Officer, specifically on the first paragraph, for example, which states that the family exists as a matter of natural right. Section 9 in the original section of the Declaration of Principles which we have already approved recognizes the sanctity of family life. We have approved that. It also protects and strengthens the family as a basic social institution. So, that concept is already embodied in this section, Mr. Presiding Officer.

Second, when it mentions marriage as a sacramental right and duty, it smacks of wordings and words in canon law, and as Commissioner Bacani states, this word "SACRAMENTAL" has a very specific religious meaning and even meanings of canon law.

MR. OPLE. It has now become "SACRED" from "SACRAMENTAL", Mr. Presiding Officer.

MR. BENGZON. Nevertheless, I am against any concept that smacks of Catholic doctrine in the Constitution. That is precisely what I would like to stress Mr. Presiding Officer.

The second paragraph is already recognized in the same Section 9 in the Declaration of Principles which says:

The natural right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the aid and support of the government.

So, all these concepts that are embodied in the propose section have already been approved and the more we say about them, in all likelihood, the more interpretation we are going to get.

I submit, Mr. Presiding Officer, that we should just limit ourselves to the principles and to the concepts and avoid the details because we are preparing a constitution. We are not making a municipal or city ordinance Mr. Presiding Officer.

With respect to the last paragraph regarding the case of the elderly members, we have discussed this

lengthily when we considered the Article on Social Justice and we precisely lumped together all the proposed section of this matter of the elderly when we took up Section 1 of the Social Justice Article by merely inserting the word "elderly" when it comes to the consideration of the priority for the needs of the elderly and the under privileged and the sick. So all these concepts, Mr. Presiding Officer, are already enshrined in the various article that we have described.

MR. OPLE. Mr. Presiding Officer, may I reply briefly to the comment just made? I think the sense of the amendment does not in any manner reiterate or replicate what already appears in the Declaration of Principles. As a matter of fact, as I said earlier, this intended to shift the focus from an overweening concern and protection of the State which we know translates also into dominance in the real world into one of family autonomy from constitutional debate. When we shift the focus from one direction to another, we are actually innovating rather than replicating. And what said earlier is correct: That the committee in manifestations made here and on the floor is willing to consider the adoption of at least a part of this omnibus proposal which is that the State shall respect the family as an autonomous social institution. Now, in yesterday debate, we kept focusing on what the State could do to promote family solidarity and harmony in an active fashion. But we say in this autonomous social institution of the family that the man and wife assume the principal responsibility for harmony, integrity and development, and for the caring of the children, and that any role by the State is purely incidental and secondary. When it exceeds that limit of interference, then we have to be on guard because that can ripen into a threat to the autonomy of the family institution. And so submit to the committee. I turn over this proposal to the committee for the possible adoption of the second sentence, at least, which treats of the obligation of the State to respect the family as an autonomous social institution. And if the Presiding Officer will be so kind as to grant a two-minute recess, maybe among the committee, Commissioner Davide and myself, we will be able to achieve a happy formulation.

SUSPENSION OF SESSION

THE PRESIDING OFFICER (Mr. Rodrigo). The Chair declares a suspension of the session.

MR. OPLE. Thank you very much.

It was 11:03 a.m.

RESUMPTION OF SESSION

At 11:13 a.m., the session was resumed.

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

MR. RAMA. Mr. Presiding Officer.

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

MR. RAMA. I ask that Commissioner Nieva be recognized for the revised formulation.

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

MS. NIEVA. Section 2 shall now read as follows: "MARRIAGE IS THE FOUNDATION OF THE FAMILY AND SHALL BE PROTECTED BY THE STATE. THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION."

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bengzon is recognized.

MR. BENGZON. This is just a clarificatory question because there are a lot of Commissioners who have some misgivings about the last phrase of the first sentence: "MARRIAGE IS THE FOUNDATION OF THE FAMILY AND SHALL BE PROTECTED BY THE STATE." Is that the wording?

BISHOP BACANI. Yes.

MR. BENGZON. Will this in any way preclude Congress from approving a law on divorce?

MS. NIEVA. We discussed that yesterday and I think we reiterated that it does not.

MR. BENGZON. It does not.

MS. NIEVA. No.

MR. BENGZON. So, even if this section or this sentence is approved, Congress will still have every right to pass a divorce law under certain circumstances as it may deem fit.

MS. NIEVA. That is right, Mr. Presiding Officer.

MR. BENGZON. Thank you.

MR. OPLE. Mr. Presiding Officer, I just wanted to be able to report that after a conference with the committee and taking account of the advice and contributions from Commissioners Davide, Rigos, Bengzon and Padilla who is absent but whose amendment was taken into account, the committee has accepted this reformulation upon which they have just reported. But I wish Commissioner Nieva had also referred to the last sentence to substitute for letter (d) in the committee formulation which reads: "THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH HUMANE SCHEMES OF SOCIAL SECURITY."

BISHOP BACANI. That will have to be subject to slight formulation perhaps, but the basic sense is maintained.

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

THE PRESIDING OFFICER (Mr. Rodrigo). What is the status now? May I ask the committee?

MR. BENGZON. We are ready to vote on that, Mr. Presiding Officer.

MR. MAAMBONG. Mr. Presiding Officer.

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

MR. MAAMBONG. The formulation now is: "MARRIAGE IS THE FOUNDATION OF THE FAMILY AND SHALL BE PROTECTED BY THE STATE." Is that correct?

BISHOP BACANI. Yes.

MR. MAAMBONG. May I introduce an amendment? After the word "MARRIAGE" we say: "MARRIAGE AS AN INVIOABLE SOCIAL INSTITUTION IS THE FOUNDATION OF THE FAMILY AND SHALL BE PROTECTED BY THE STATE."

I am introducing this amendment to realign it again with Article 52 of the New Civil Code which says that "marriage is not a mere contract but an inviolable social institution."

MR. OPLE. I accept the amendment and I hope the committee does the same, Mr. Presiding Officer.

MS. NIEVA. We accept, Mr. Presiding Officer.

MR. BENGZON. With the same interpretation as articulated earlier on the basis of my question.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). Is the body ready to vote?

As many as are in favor of the amendment, as amended, please raise their hand. (Several members raised their hand).

As many as are against, please raise their hand. (No member raised his hand).

The results show 18 votes in favor and none against; the proposed amendment is approved.

BISHOP BACANI. Mr. Presiding Officer, we have also accepted the amendment of Commissioner Ople which can now fall under Section 3 to the effect that "THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION."

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any comment?

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

MR. DAVIDE. This is just a matter of sectioning. Can we not place it as paragraph 2 of Section 2 instead of making it a separate section?

BISHOP BACANI. Yes, Mr. Presiding Officer, we can do that.

THE PRESIDING OFFICER (Mr. Rodrigo). Will the committee please read the sentence again?

BISHOP BACANI. So, the sentence now reads: "THE STATE SHALL RESPECT THE FAMILY AS AN AUTONOMOUS SOCIAL INSTITUTION."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor of that amendment, please raise their hand. (Several members raised their hand).

As many as are against, please raise their hand. (No member raised his hand).

The results show 18 votes in favor and none against; the proposed amendment, which is now paragraph 2 of Section 2 is approved.

The Floor Leader is recognized.

MR. RAMA. Commissioner Bacani wishes to be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. I wish to propose three amendments from the committee side, Mr. Presiding Officer. Let me read the first one. This is subject to transfer to any part of this committee report: "THE STATE SHALL PROTECT THE FAMILY FROM POPULATION POLICIES IMPOSED AS A CONDITION FOR FOREIGN AID OR LOANS."

Let me explain this: the important word here is the word "IMPOSED." It is not that population policies are being excluded; population policies are admissible under this provision but there are certain population policies which can be imposed, and which seems to have been imposed already upon the Philippines by foreign interest as a condition for foreign aid or loans. Hence, it is being proposed here by myself as a form of protection for Filipino families.

Let me mention one specific case. At present it was reported to me that the drug Depo-Provera is being tested or is being used for 1,000 women in Cavite. This is a contraceptive, but this has not been approved for use in the United States of America.

And now, when we are asked to reduce our population as a condition for foreign aid and such means are used, then I think the State should protect its women from such impositions.

So, that is the rationale for this amendment, Mr. Presiding Officer.

REV. RIGOS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Rigos is recognized.

REV. RIGOS. This is a good idea but this imposition as a condition for foreign aid or loans does not have to be constitutionalized. This can be a matter of government policy or, at best, of legislation, but not in the Constitution. So, for that reason, I believe this should not be included in the Article on Family Rights.

MS. ROSARIO BRAID. Mr. Presiding Officer.

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

MS. ROSARIO BRAID. In the Article on General Provisions, we have a section referring to population policy and I was wondering if we could defer discussion on this until we consider said article because that is where we will discuss this. So, there will be no need to harmonize anymore. And since this is a provision there, maybe we can defer discussion when we reach it.

THE PRESIDING OFFICER (Mr. Rodrigo). What does Commissioner Bacani wish to say?

BISHOP BACANI. Mr. Presiding Officer, the provision in the Article on General Provisions, according to the present formulation, states: **THE STATE SHALL FORMULATE POPULATION POLICIES MOST CONDUCTIVE TO THE GENERAL WELFARE.**"

That is the statement there. This one is a protection of the family from an imposition which derogates from the sovereignty of the Filipino people and Filipino women in particular.

MS. ROSARIO BRAID. Mr. Presiding Officer, if we do that we might also include such negative aspects as pornography, drug abuse, et cetera. In other words, by including that, we would also have to include other negative social forces. So, my position is that maybe this should be in the Article on General Provisions.

BISHOP BACANI. Yes, we will agree on that.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

MR. DAVIDE. I really would like to second the proposal to defer because in the proposed Section 13 of the proposed Article on General Provisions we have a second sentence:

....It shall, however, be the right and duty of parents to determine the number of their children and, in the exercise of this right and duty, they shall not be compelled to use means of birth limitation that

shall be against their informed conscience and religious convictions.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Ople is recognized.

MR. OPLE. Yes, I also stand up to endorse the motion of Commissioner Rosario Braid, so that this can be deferred until we come to the appropriate sections in the General Provisions. It just want to point out that the draft Article on Family Rights seems to be an important constitutional statement of the values we associate with the family, and the matter treated in this proposed amendment of Commissioner Bacani seems to a departure from that. It speaks actually of a power that is already lodged in the executive. We do not even need a law. If the President of the Philippines decides today to prohibit such forms of impositions, this is within her executive prerogative to do so.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Does Commissioner Bacani have any objection to this suggestion that consideration of this be deferred?

BISHOP BACANI. Yes, I am agreeable to that, Mr. Presiding Officer. It will be deferred anyway.

MR. SARMIENTO. Mr. Presiding Officer, may I just address one question?

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Sarmiento is recognized.

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

May I address one question to Commissioner Bacani? Is the Gentleman proposing this amendment? Can we not say that this amendment is covered by the intendment of Sections 1 and 2 - the Davide amendment and the Ople amendment - that it is the obligation of the State to protect the family?

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Sarmiento, the consideration of the proposed amendment is deferred anyway. So, should we not defer also discussion of it?

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

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

BISHOP BACANI. We will now proceed to the next section in our article.

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

MS. NIEVA. The next section reads:

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

That is no longer Section 2 then. It should be Section 3:

.... The State shall defend the following: The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood.

MR. OPLE. Mr. Presiding Officer, may I put a question to the committee concerning this first line?

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Ople is recognized.

MR. OPLE. Thank you.

Has there ever been any doubt regarding the right of spouses especially under the marriage institution acknowledged now in Section 1 to be the foundation of the family, so that there is a need for a constitutional acknowledgment of such right?

MS. NIEVA. I think we are referring here to the limitations of the right of the family - of founding a family - in the sense that there are states like, let us say, Singapore that first decreed that the parents should have no more than two children. That type of limitation of the family that we are referring to is an encroachment of the State on the rights of the family such as in China where they say there should be only one child.

MR. OPLE. Would this give power to the State and the Congress to pass laws that would limit the size of the family?

MS. NIEVA. Yes, that would impose the state power to say that you may have only so many and no more.

MR. OPLE. Would this then render unconstitutional some existing laws?

MR. BENGZON. May I offer an example, Mr. Presiding Officer?

MR. OPLE. Yes. I thank Commissioner Bengzon for coming to my aid.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bengzon is recognized.

MR. BENGZON. Suppose Congress passes a law that if a family has more than four children, only the first four children will be entitled to a deduction on income tax and anything beyond four children will be declared unconstitutional. Is that an unconstitutional law?

MS. NIEVA. I am not an expert in constitutional law, so maybe the lawyers can help.

MR. OPLE. In addition to this, I will just point out that such a law already exists - that beyond four children, a taxpayer may not claim any further deductions.

There is another law, the Maternity Benefit Law, according to which after four children a woman worker may no longer claim maternity benefits from the Social Security System.

We can think of two laws already existing that precisely militate in order to put a limit to family size in terms of incentives and disincentives. So that under this first line that has been read, it appears that these two laws - and there might be more that we cannot recall immediately on the floor - become unconstitutional?

BISHOP BACANI. We cannot answer that very directly now. But if they can be demonstrated to be coercive rather than simply persuasive, then they would be unconstitutional.

MR. OPLE. The violation of these two laws entails the deprivation of rights and benefits that are normally inhered in the positions of these workers and taxpayers. Therefore, they are coercive in character and by the standard just stated by the committee, they then become unconstitutional.

BISHOP BACANI. I do not know whether I would necessarily agree with the Gentleman's judgment that they are coercive. That is why I cannot pronounce on their unconstitutionality very categorically.

MR. OPLE. There is a sanction for violations which I have stated, the deprivation of certain benefits normally inhering in citizenship, but these are taken away if the family size exceeds the legal limit of four.

BISHOP BACANI. The difficulty is, not being a lawyer, I do not know whether the granting of tax exemptions is a favor that is given by the State or it is a right that an individual can demand under all circumstances.

MR. OPLE. I will not press the point, but I think this sheds some light on the highly significant character of this otherwise innocent-looking provision.

Thank you, Mr. Presiding Officer.

MR. BENGZON. Mr. Presiding Officer, may I follow up on the points raised by Commissioner Ople?

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bengzon is recognized.

MR. BENGZON. The discussion that has just taken place is a small example of the problems that can be created by this provision because it may be coercive from the viewpoint of one particular family and the laws which are existing now, for example, may be coercive from the viewpoint of one or several existing families. And yet with another group of families, it may just be persuasive.

So, the problem that will be created is: who is to determine whether or not laws passed by Congress that would take away privileges or perhaps even rights are constitutional? In the case of the Internal Revenue Code, for example, the matter of deductions claimed by the head of the family by virtue of law becomes a right or is a right. Therefore, if we are going to take away that particular right from the head of the family from claiming additional deductions for his fifth child, then we are going to create now a problem as to whether that is constitutional or not and, therefore, there will be enormous litigations that will be invited.

MR. COLAYCO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Is Commissioner Bengzon through?

MR. BENGZON. I just want to emphasize that point and I want to find out what Commissioner Bacani could say in so far as that point is concerned, since it might be best to leave the matter by itself?

MR. COLAYCO. Mr. Presiding Officer, may I react to the comments of Commissioner Bengzon?

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

MR. COLAYCO. Under Section 13 of the proposed Article on the Declaration of Principles and State Policies and Family Rights and Duties, we have a provision, a portion of which says:

It shall, however, be the right and duty of parents to determine the number of their children and, in the exercise of this right and duty, they shall not be compelled to use means of birth limitation...

So, this section recognizes the right of parents to determine the number of their children. Therefore, when a law is passed, as I think it has been passed, reducing or limiting the right of a parent to claim exemption for children in excess of a certain number, it would be subject to attack as discriminatory, to say the least. Unfortunately, no one has yet, raised this question to the Supreme Court. But, personally, I think it would be subject to attack on that ground.

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

Are we ready to vote on this proposed amendment?

MR. RAMA. Yes, Mr. Presiding Officer, we are ready to vote.

THE PRESIDING OFFICER (Mr. Rodrigo). Please read the proposed amendment again.

MS. NIEVA. "THE RIGHT OF SPOUSES TO FOUND A FAMILY IN ACCORDANCE WITH THEIR RELIGIOUS CONVICTIONS AND THE DEMANDS OF RESPONSIBLE PARENTHOOD."

That is the statement.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor, please raise their hand. (several members raised their hand).

As many as are against, please raise their hand. (Four members raised their hand).

The results show 14 votes in favor, none against, and 4 abstentions; the proposed amendment is approved.

The Floor Leader is recognized.

MR. RAMA. I ask that Commissioner Sarmiento be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Sarmiento is recognized.

MR. SARMIENTO. May I comment on Section 3 (b), Mr. Presiding Officer. This is actually the product of three resolutions filed by three or several Commissioners, one resolution on children was filed by Commissioner Rigos, another resolution was filed by Commissioners Villacorta, Aquino, Nieva, Uka, Quesada, Tan, Monsod, this Representation and Rosario Braid, and another resolution was filed by this Representation.

To us this provision, Mr. Presiding Officer, is important because we have at present in our midst rampant child prostitution, child labor, child abuse and child neglect. A study showed that in our country today 69 out of 100 children below seven years old are malnourished; 454 out of 1,000 babies die before they are one year old; one out of 100 school children is severely malnourished; six to eight million are underweight; and less than 10 per cent of Filipino children are believed to have completed primary immunization. Another study showed that roughly 30 per cent of school age children from six to 14 years old are not studying; only 66 per cent of those who enroll in Grade I complete their elementary schooling; and only 22 per cent of those who enroll in Grade I get to finish high school.

Aside from this data we have studies that show that many of our children or youth are already working by selling sampaguitas, watching cars, barking for jeepneys, and also contracting or working in companies but receiving below minimum wages.

So, with this brief explanation, Mr. Presiding Officer, the Commissioners I mentioned express support for this provision in Section 3, paragraph (b).

THE PRESIDING OFFICER (Mr. Rodrigo). This is a committee amendment, too.

MR. SARMIENTO. Yes, sir.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

MR. DAVIDE. We are still on paragraph (b) of Section 3, as worded in the document?

MS. NIEVA. That is right. I think there have been several amendments, the Gentleman's being prominent among them.

MR. DAVIDE. Yes, I have the following amendments: Before "cruelty" insert the word "ABUSE" then delete the word "and" before "exploitation"; after "exploitation" insert the following: "IMPROPER INFLUENCES, HAZARDS, OR CONDITIONS OR CIRCUMSTANCES PREJUDICIAL TO

THEIR PHYSICAL, MENTAL SOCIAL, AND MORAL DEVELOPMENT."

THE PRESIDING OFFICER (Mr. Rodrigo). What does the committee say?

SUSPENSION OF SESSION

BISHOP BACANI. We are agreeable with the thrust but maybe we can diminish the number of words. It seems that it is a little too long if we put it that way.

May we have a suspension of session, Mr. Presiding Officer?

THE PRESIDING OFFICER (Mr. Rodrigo). The session is suspended.

It was 11:41 a.m.

RESUMPTION OF SESSION

At 11:44 A.M. the session was resumed.

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

Commissioner Bacani is recognized.

BISHOP BACANI. Mr. Presiding Officer, after a conference with Commissioner Davide and Villacorta, we have agreed on this formulation: "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."

Commissioner Villacorta will give the names of the cosponsors of this amendment.

MR. VILLACORTA. Mr. Presiding Officer, just for the record.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Villacorta is recognized.

MR. VILLACORTA. The cosponsors are Commissioners Maambong, Romulo, Ople, Sarmiento, Rigos and Rosario Braid.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). I think the body is ready to vote.

As many as are in favor of this amendment, please raise their hand. (Several members raised their hand.)

As many as are against, please raise their hand. (No member raise his hand.)

As many as are abstaining, please raise their hand. (Few members raised their hand.)

The results show 14 votes in favor, none against and 3 abstentions; the proposed amendment is approved.

The Floor Leader is recognized.

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

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. May I turn the microphone over to Commissioner Nieva.

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

MS. NIEVA. Paragraph (e) under former Section 2 reads as follows: "The right of family wage earners to a decent family living wage."

Yesterday, there was some discussion as to the meaning of "family living wage." We explained that this meant a wage that would enable a family to live a dignified life, have its basic needs fulfilled and have the necessary social services rendered to the family.

MR. BENGZON. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bengzon is recognized.

MR. BENGZON. What happens in a situation if the head of a family, because of difficulty in getting a job or because of his lack of qualification, accepts an allowance from an employer that is not considered a family living wage? Is the employer liable for this or can the head of the family demand and sue for back wages for the period he was not paid the family living wage after accepting below standard allowance against his employer?

BISHOP BACANI. Mr. Presiding Officer, this provision expresses a right we must acknowledge that under present Philippine conditions is not always enforceable. But we must realize that each family is entitled to that share of the fruits of production that will allow them at least to live a decent human life as a family.

In that case, the employer cannot be sued and yet the State must work towards those conditions which will enable a family living wage to be paid.

At present, we were told during one of our public hearings in the Committee on Labor, only 10 per cent of the firms pay the minimum wage, which is way below the family living wage. For Metro Manila and for a family of five, it is more than P5,000 according to the latest Center for Research and

Communications report. But the State should work towards the conditions which will enable the family living wage to be paid without necessarily making the employer suable when the conditions in his business do not allow that.

MR. BENGZON. Following up that same example, if at a certain point in time the business of the employer improves and he is, therefore, now able to give an increase and does so, will the worker have the right to claim for back wages under this particular article? In other words, can the worker now come around and say, "Well, now you have the ability to pay a decent living wage and I appreciate the fact that you are now paying me a decent living family wage, may I now claim for back wages. When I joined you, you were unable to pay a family living wage. I sacrificed and joined up with you. Now that you are able to pay, I want my back wages." Can he do that?

BISHOP BACANI. No, that is not the contemplation here. In other words, it will have no retroactive effect. If he was deprived of the wage not through the fault of the employer, then the employer will not be liable to pay him the back wages when he becomes able, when the business becomes viable.

MR. BENGZON. During that period that this worker is not receiving a family living wage through no fault of his employer, can he go to the Ministry of Social Services and demand that the State make up the difference between what he receives from his employer and what he believes to be a family living wage?

BISHOP BACANI. Given the conditions that he and the members of his family have also tried to work and have not been able to get enough in order to be able to support themselves decently, then they can go for help to the State, and the State will be obliged to help them together with other sectors of society to the extent that it can.

MR. BENGZON. If there is no budget, no money provided for in the budget of the Ministry of Social Services, for example, for that purpose, what happens?

MS. NIEVA. I think we can apply the same reasoning to the other provisions that we have for health, for education and for all the other services that we have pledged. The State will promote to extend to all its citizens. But all of these are all subject to availability of funds.

MR. BENGZON. I was about to say what the Commissioner just said. In other words, the bottom line is that everything is subject to availability of funds of the State.

MS. NIEVA. I think that has been the presumption all along in all our discussions on all the services that we have asked the State to define.

MR. BENGZON. We have to make that clear in the record, Mr. Presiding Officer, because we do not want the people to really expect this and then go to the State and demand for it. And if the State cannot give it, then they go to the streets. I think we have to be very clear about this. We do not want people to go to the streets and conduct demonstrations and rallies simply because they feel that they have a right to this under the Constitution and the State is not giving them that particular right. We have to

be very clear about the fact that although this is something that we wish, it is a hope. Am I correct?

MS. NIEVA. It is a goal that we should aim for, too.

MR. BENGZON. It is a hope and it is a goal subject to the availability of the State to provide these particular services and benefits.

MS. NIEVA. I think there is no quarrel with that.

MR. BENGZON. Thank you.

BISHOP BACANI. And the other sectors of society also should enter into the picture.

MS. ROSARIO BRAID. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Braid is recognized.

MS. ROSARIO BRAID. On the same section, would this corresponding right to a decent family wage be coupled with obligations of the family to nurture and instill in the family members values of discipline, of productivity in order that when they compete in the labor market, they would not be just making demands, but they are able to provide adequate services for the wages that they get?

MS. NIEVA. Yes, certainly, Mr. Presiding Officer.

MS. ROSARIO BRAID. So my whole point is that I just want to read this into the record - these rights must be accompanied by obligations.

MS. NIEVA. By responsibilities, yes.

MS. ROSARIO BRAID. As I said earlier, there is some need to realign, to reorient certain family values towards needed values particularly for the marketplace and those values of discipline, productivity, quality consciousness and independence.

MS. NIEVA. Mr. Presiding Officer, I think we all agree that when we are speaking of rights, there will be corresponding duties that are expected from the parties concerned. And regarding the values that we have mentioned, certainly, we think this is part of the educational aspect of the role of the parents in rearing and educating their children.

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Ople is recognized.

MR. OPLE. Thank you very much.

Since we are in the period of amendments, I presume, I would like to propose the addition of a phrase to the text of Section 2(c) so that it will read: "The right of the family to a decent family living wage

OR INCOME." The reason for this, Mr. Presiding Officer, is that about 60 per cent of our work force are not in the wage system; they are outside the wage system. The bulk of these are unpaid family labor; those farmers who earn the equivalent of a wage but we do not call that a wage, which is the income from the farm after all the expenses are deducted. They comprise about 60 per cent of the total labor force. So that if we adhere to the term "living wage," we would cover only about 40 per cent of the families of the Philippines. Therefore, if we assume that the family living wage is already reaffirmed as part of the text of Section 2(c), I suggest that we add "OR INCOME."

BISHOP BACANI. That is a very welcome amendment, Mr. Presiding Officer.

MR. OPLE. Thank you very much, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). What is the amendment again?

MS. NIEVA. "... the right of the family to a decent family living wage OR INCOME."

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any objection to the Ople amendment which the committee has accepted? (Silence) The Chair hears none; the amendment is approved.

MR. RAMA. We are now ready to vote on the whole Section 2(c).

BISHOP BACANI. Let me read Section 2(c). Mr. Presiding Officer. It says: "The State shall defend the right of the family to a family living wage OR INCOME."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor, please raise their hand. (Several members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

As many as are abstaining, please raise their hand. (One Member raised his hand.)

The results show 19 votes in favor, none against and one abstention: Section 2(c), as amended, is approved.

MS. NIEVA. The next provision is as follows: "The right of the elderly to family care, according to Filipino tradition."

MR. OPLE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Ople is recognized.

MR. OPLE. There was an agreement between the committee and those who conferred with them at the beginning to accept a reformulation of this section.

BISHOP BACANI. Yes, Mr. Presiding Officer. We will have to reformulate it because the way it was phrased was that it is the duty of the family but now it is the right of the elderly to family care.

MR. OPLE. Yes. With the indulgence of the committee, may I refresh their memory about this accepted statement in Section 2(d): "THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH JUST SCHEMES OF SOCIAL SECURITY."

BISHOP BACANI. Yes. Our difficulty stems from the reconciliation of right and duty in one sentence.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

MR. DAVIDE. May I proposed to have it as Section 4?

MS. NIEVA. As a separate section? Yes, then we could put it in that formulation.

MR. OPLE. Yes, I agree, Mr. Presiding Officer.

May I just say a few words; this takes a few seconds to explain. There are already eight million members of the Social Security System in the private sector and 1.2 million government retirees in the GSIS. The main purpose of social security is precisely to allow workers in the twilight of their lives, after retirement, to retire in comparative dignity and well-being through benefits that they have paid for throughout their working lives. And so, I think when we speak of the duty of the family to care for the elderly, we also should recognize that the State is already doing this through a social security system in both the private and the public sectors.

THE PRESIDING OFFICER (Mr. Rodrigo). May the Chair ask for a clarification? So this proposed amendment will be Section 4; Section 2(d) is deleted to give way to this Section 4. Is that correct?

SUSPENSION OF SESSION

BISHOP BACANI. As of now, we want to retain Section 2(d) and then have Section 4. But may we have a suspension of the session, Mr. Presiding Officer, to confer with Commissioner Ople?

THE PRESIDING OFFICER (Mr. Rodrigo). The session is suspended.

It was 12:02 a.m.

RESUMPTION OF SESSION

At 12:04 a.m., the session was resumed.

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

BISHOP BACANI. So the text, as amended by Commissioner Ople and as it is now put under Section 4, is: "THE FAMILY HAS THE DUTY TO CARE FOR ITS ELDERLY MEMBERS BUT THE STATE MAY ALSO DO SO THROUGH JUST SCHEMES OF SOCIAL SECURITY."

THE PRESIDING OFFICER (Mr. Rodrigo). Will the result of this be the deletion of paragraph(d)?

MS. NIEVA. Yes, that automatically results in the deletion of Section 2(d).

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor, please raise their hand. (Several members raised their hand.)

As many as are against, please raise their hand. (No member raised his hand.)

The results show 20 votes in favor and none against; the amendment is approved.

MR. RAMA. Mr. Presiding Officer, I ask that Commissioner Nieva be recognized to read the last proposed section.

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

MS. NIEVA. We have an amendment and copies were distributed a while ago. It says, "The right of families and family association to participate in the planning and implementation of policies and programs that affect them."

THE PRESIDING OFFICER (Mr. Rodrigo). Will this come under Section 2?

MS. NIEVA. This would be a separate section. The rationale behind this is that we have provided throughout the Constitution for the right of people's organizations in expressing or defending or in formulating policies and programs that have a direct bearing on their welfare.

We feel that the families should be heard by public authorities in the planning or formulation and implementation of whatever policies may be planned and whatever programs may be effected that directly affect their welfare for good or for ill. We think that the families should have a voice in the same way that we have given voice to the other sectors of society.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Nieva, will this be a new section or a subsection under Section 2?

MS. NIEVA. It would be under Section 2.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bengzon is recognized.

MR. BENGZON. This is a formulation of the committee, Mr. Presiding Officer.

MS. NIEVA. It is an amendment that we are proposing, Mr. Presiding Officer.

MR. BENGZON. All right. Just for clarification: This recognizes the right of the families to express themselves, to present position papers, to appear in public hearings and to request that they be heard by Congress or by the executive department of government when it comes to policies or proposed laws that would affect the right of families and their associations. Is this not correct? This is the whole crux of this section.

MS. NIEVA. The rights of the families, yes.

MR. BENGZON. Yes, this is a recognition of the right of the families to be heard.

MS. NIEVA. And to be consulted.

MR. BENGZON. I see. Therefore, if the State or Congress or the various agencies of the government do not formulate mechanisms that would implement this, then this would further give the families their right to present themselves to these agencies.

MS. NIEVA. Yes.

MR. BENGZON. Thank you.

MR. DE CASTRO. Mr. Presiding Officer.

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

MR. DE CASTRO. May I just ask a question of the committee? Section 16 of the Article on Social Justice states, and I quote:

The right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making shall not be abridged. The State shall by law facilitate the establishment of adequate consultation mechanisms.

What is the difference now of this section with the proposal?

MS. NIEVA. We believe that Section 16 is a much wider provision; it covers all sort of people's aggrupations and organizations. In this proposal, we are speaking of family rights; we have narrowed its scope.

MR. DE CASTRO. Are "members of the families" not people?

MS. NIEVA. Yes, they are and in the same way that in education we provided that there should be

consultation mechanisms between parents, teachers and the different organizations. So we are also asking here that the families be at least consulted and heard in the formulation of public policies that definitely will have a bearing on their welfare.

MR. DE CASTRO. If that is the case, then I propose the right of children and the youth, as well as youth associations, to participate in the planning and implementation of policies and programs that affect them. Is that also a different formulation? Because these are children now, this is the youth, unlike people, families and family associations.

MS. NIEVA. I think the needs of the families are very specific, and so we think we are referring here to "families" as the group or the sector of the families whose right is to be heard. We are agreed that the family is really the foundation of the society.

MR. DE CASTRO. Are the rights of people not also specific? It is specifically stated here, "the right of the people and their organizations."

MS. NIEVA. Yes, Mr. Presiding Officer, I see no contradiction whatsoever.

MR. DE CASTRO. Thank you.

MR. ROSARIO BRAID. Mr. Presiding Officer.

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

MS. ROSARIO BRAID. I am very much in favor of this provision, but may I just ask a question of whether in terms of operationalization, I expect this would be through family associations rather than families themselves? Is that correct?

MS. NIEVA. Yes, generally, they will do it through associations but we are not precluding individual families from taking advantage of their rights as citizens to be heard.

MS. ROSARIO BRAID. In our approved provision in the Article on Declaration of Principles where we say that the State shall promote non-governmental organizations and community-based associations, we also refer to "family organizations." I just want to mention that because we want to make sure that the Style Committee would not look at this as surplusage, but that this provision supports the provisions on the Article on Social Justice which are really similar when we talk of "peoples" organizations."

MR. RAMA. Mr. Presiding Officer.

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

MR. RAMA. I ask that we vote on that provision.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor, please raise their hand. (Several members raised their hand.)

As many as are against, please raise their hand. (Few members raised their hand.)

The results show 8 votes in favor and 7 against; the amendment is approved.

Let me just clarify. Therefore, this amendment that was just approved will be subsection (d) of Section 2.

MS. NIEVA. Yes, Mr. Presiding Officer.

MR. DE CASTRO. Mr. Presiding Officer, may I propose another amendment which reads: "THE RIGHT OF THE YOUTH AND YOUTH ASSOCIATIONS TO PARTICIPATE IN THE PLANNING AND IMPLEMENTATION OF POLICIES AND PROGRAMS THAT AFFECT THEM."

THE PRESIDING OFFICER (Mr. Rodrigo). What does the committee say?

MR. DE CASTRO. Mr. Presiding Officer, may I explain. The "youth" is different from "families."

BISHOP BACANI. Is Commissioner de Castro very serious about this?

MR. DE CASTRO. I am serious about this because we are differentiating "people." My next amendment is the right of the children and children's association. Mr. Presiding Officer, we are making a mockery of our Constitution. Imagine "families" are not "people."

BISHOP BACANI. That is not the implication.

MR. MAAMBONG. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). What does the committee say? Does Commissioner de Castro insist on his amendment?

BISHOP BACANI. We do not accept the amendment.

THE PRESIDING OFFICER (Mr. Rodrigo). So the committee does not accept the amendment.

Commissioner Maambong is recognized.

MR. DE CASTRO. May I have a few minutes to explain my proposal?

THE PRESIDING OFFICER (Mr. Rodrigo). All right, Commissioner de Castro may proceed.

MR. DE CASTRO. If the families and family associations have a right to participate in the planning and implementation of policies, the more the youth has the right to participate because they are the hope of the fatherland; the youth, not the family. So why should we not allow our youth to participate in the

planning and implementation of policies that affect them? The families may be old but they are no longer the hope of the fatherland.

MS. ROSARIO BRAID. Mr. Presiding Officer.

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

MS. ROSARIO BRAID. We already have in the Declaration of Principles the participation of the youth. In the section on youth in the Article on Declaration of Principles, we have specifically included the rights of youth to participate and to be involved in policies and programs. So that will take care of Commissioner de Castro's concern.

MR. DE CASTRO. This is a declaration of principle, Mr. Presiding Officer. We would like to implant the right of the youth, the hope of the fatherland, on this. The next amendment will be on the children.

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

MR. MAAMBONG. Mr. Presiding Officer, maybe I got lost along the way, but are we discussing the Article on Family Rights?

BISHOP BACANI. That is it; that is what we are about to say.

MR. MAAMBONG. That is just what I wanted to find out. The youth is going into the picture now and we are supposed to discuss family rights.

Thank you.

MR. DE CASTRO. The youth is part of the family, Mr. Presiding Officer.

BISHOP BACANI. So, as the youth is part of the family, it is, therefore, included.

THE PRESIDING OFFICER (Mr. Rodrigo). Are we ready to vote on this amendment?

BISHOP BACANI. Yes, we are ready for a vote, Mr. Presiding Officer. We do not accept the amendment.

MR. DE CASTRO. Mr. Presiding Officer, I withdraw my amendment. I would just like to show that we are making a mockery of our Constitution by differentiating families from people.

MS. NIEVA. We are sorry, Mr. Presiding Officer. We firmly believe in the rightness of our proposal here. We know that the Gentleman is not serious at all in recommending that, so we said we do not accept.

THE PRESIDING OFFICER (Mr. Rodrigo). All right. The amendment was withdrawn. Mr. Floor Leader, are we ready to suspend the session now?

MR. DE CASTRO. Mr. Presiding Officer, I have one more question please.

THE PRESIDING OFFICER (Mr. Rodrigo). Yes, Commissioner de Castro may proceed.

MR. DE CASTRO. I would like to make a little clarification. The Committee on Sponsorship is given the right to correct, harmonize and avoid inaccuracies. This morning we approved the provision: "The State recognized the Filipino family."

Will the Sponsorship Committee or the Style Committee remove "family"? We are talking here of the Filipino Constitution. We are talking here neither of the Chinese family nor of the Korean family. Certainly, we are talking of the Filipino family. Will the Committee on Style remove the word "family" in this case.

THE PRESIDING OFFICER (Mr. Rodrigo). The Committee on Style, of which I am the chairman, can change only the phraseology but not the substance.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

Because even the thought of Section 1, which we approved this morning, is the same as the first sentence of Section 9 of the Article on Declaration of Principles which we approved three days ago. I would just like to ask whether the Sponsorship Committee or the Committee on Style can eliminate those which are inaccurate or inconsistent.

THE PRESIDING OFFICER (Mr. Rodrigo). The functions of the Committees on Sponsorship and Style are in our Rules and every Member has a copy of the Rules.

MR. DE CASTRO. Thank you, Mr. Presiding Officer.

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

MR. RAMA. I move that we close the period of amendments.

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any objection?

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). What is the pleasure of Bishop Bacani?

BISHOP BACANI. There are still two amendments that have been submitted. May I just read them? Both of them are about mothers.

MR. RAMA. I withdraw my motion to close the period of amendments subject to the reservation of two proposed amendments.

BISHOP BACANI. Thank you.

MR. DAVIDE. Mr. Presiding Officer, by reservations, would it include some of my proposed amendments?

THE PRESIDING OFFICER (Mr. Rodrigo). There are only two reservations.

MR. RAMA. There are two reservations. May we ask the body if there are other reservations?

MR. DAVIDE. I would like to make my own reservation. I have some proposals.

BISHOP BACANI. Mr. Presiding Officer, I forgot about the proposals of Commissioner Davide on which we will confer with him after lunch.

MR. RAMA. On the reservation made by Commissioner Davide, that would be an amendment to the motion.

BISHOP BACANI. So it will be Commissioners Rosario Braid, Bacani, Sarmiento and Davide.

THE PRESIDING OFFICER (Mr. Rodrigo). So the motion is to close the period of amendments which goes with the reservations already just mentioned?

MR. RAMA. Yes, Mr. Presiding Officer.

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

BISHOP BACANI. Thank you, Mr. Presiding Officer.

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

SUSPENSION OF SESSION

MR. RAMA. I move for a suspension of the session until two-thirty this afternoon.

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any objection? (Silence) The Chair hears none; the session is suspended until two-thirty this afternoon.

It was 12:21 p.m.

RESUMPTION OF SESSION

At 2:47 a.m. the session was resumed.

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

MR. RAMA. Mr. Presiding Officer.

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

MR. RAMA. I move that we resume consideration of the Article on Family Rights.

THE PRESIDING OFFICER (Mr. Rodrigo). Is there any objection? (Silence) The Chair hears none; the body will resume consideration of the Article on Family Rights.

MR. RAMA. I ask that the chairman and the committee members take their seats in front.

Mr. Presiding Officer, there are two of three reservations for amendment after the period of amendments has been closed:

I ask that Commissioner Bacani be recognized.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. Does the honorable Floor Leader want me to read the three suggestions one after the other?

MR. RAMA. Yes, please.

BISHOP BACANI. I shall first read the suggestion of Commissioner Davide which I am glad to co-author with him. It states: "ALL CHILDREN REGARDLESS OF FILIATIONS SHALL ENJOY THE SAME SOCIAL PROTECTION."

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Monsod is recognized.

MR. MONSOD. Will the Gentleman give examples of lack of social protection other than property allocations under the Civil Code? What are the types of social protection that the State must enact?

MR. DAVIDE. Mr. Presiding Officer, we cannot for the moment imagine this social protection, but definitely we could say that perhaps the State may provide for opportunities where a child who is legitimate may not consider another who is illegitimate as lower in category to his own category. It is just trying to establish a degree of social norm where, for purposes of the mantle of social protection, no discrimination should be made against those who may be of a status lower than that of a legitimate child.

MR. RAMA. Mr. Presiding Officer.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Monsod may proceed.

MR. MONSOD. I still do not know what social protection means.

MR. RAMA. Mr. Presiding Officer, point of information.

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

MR. RAMA. Although I am against this provision, there is a case wherein social discrimination is on the part of an institution or a school or private person and not on the part of the State. For instance, there are certain schools here who demand a birth certificate of a child once he enrolls. If the birth certificate shows that he is an illegitimate son or daughter, he is not enrolled in that school. That could be a social discrimination but then we cannot demand that of a private institution. What is contemplated in this proposal is social equality from the State. Is that not correct?

MR. DAVIDE. That is partly correct; as a matter of fact, I would even say that in the matter we have contemplated, we now guarantee rights to children to quality education and, therefore, no educational institution can even require legitimate filiation as a condition precedent to his admission. This is practically, in effect, embodied but we want to broaden the scope of social protection. In education, that is one already, and I would say again that for an educational institution to require legitimate paternity or the status of being a legitimate child as a condition to admission is in itself already a discrimination which cannot be tolerated under the Article on Education.

MR. RAMA. Despite the fact that I have mentioned that case, Mr. Presiding Officer, I am against this provision because I do not think it is proper to be placed in the Constitution.

MR. DAVIDE. Mr. Presiding Officer, I would say that even in the Constitution of Italy, there is a very clear provision regarding equality, not only, perhaps, in social protection but even in property relations.

MS. NIEVA. Mr. Presiding Officer, I think I have about at least a dozen constitutions where the children are protected, whether they are specifically stated born in or out of wedlock, not only in terms of social protection but legal protection so that they cannot be just ignored by their parents and that they must be supported and given an education, and so forth.

MR. MONSOD. Yes. But, Mr. Presiding Officer, that is already contained in the Civil Code; that is also covered by the Bill of Rights. I think it might just open the door to all kinds of interpretation on what kind of protection should be given and it might impair other rights. We must be careful in putting in the Constitution provisions like this that probably will create more injustice than solve them. And if they are adequately covered in other sections and in the implementing laws of the country, I think this could be a dangerous provision that can be used by the State in order to interfere and intervene with private rights.

MR. ABUBAKAR. Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER. (Mr. Rodrigo). Commissioner Abubakar is recognized.

MR. ABUBAKAR. I think the enumeration of all these has no place in the Constitution. A constitution drafted by any government or state is supposed to provide for the limitation of powers and the powers of government. Now we are going into wedlock; to mention even this particular phrase in the Constitution, would it not affect the dignity of the State or the Filipino? This can be settled by jurisprudence and by legislative measures but to enshrine this in the Constitution, especially the inclusion of a phrase "out of wedlock," would place us in an embarrassing position when people read our Constitution. I do not think I have read any constitution of any country in the world with this particular phraseology touching even the morality of its people. Let the Constitution, as all constitutions do, define provisions of the power and limitations of government. This can be taken in ordinary legislation. The moral of government is not part of the Constitution or a constitution with so many provisos that perhaps, we can include therein certain actuations which are immoral as this provision seems to indicate. We should concentrate on the powers and limitations of government.

REV. RIGOS. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Rigos is recognized.

REV. RIGOS. This morning we approved Section 2(b) in the old formulation which states:

The right of children to assistance and special protection from all forms of neglect, abuse, cruelty...

We approved that this morning. Maybe it would be enough to put into the record that the special protection being suggested now as belonging to the children is already included in the sense of the sentence approved this morning. So if the committee agrees that such an interpretation can be acceptable, the present proposal may not be necessary anymore.

MR. NOLLEDO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Nolleddo is recognized.

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

I would like to ask some clarificatory questions of Commissioner Davide.

MR. DAVIDE. Gladly, Mr. Presiding Officer.

MR. NOLLEDO. Will the Commissioner agree with me that the social protection he is contemplating may cover a rule against unjust discrimination in employment in the government, employment in the private sector and in pursuing education?

MR. DAVIDE. It can.

MR. NOLLEDO. Thus, if the government has a rule that only legitimate children should be employed, that rule will go against his proposal?

MR. DAVIDE. Yes, Mr. Presiding Officer.

MR. NOLLEDO. It is also applicable in the same manner in the case of employment in the private sector where certain companies will adopt a policy that only legitimate children should be employed?

MR. DAVIDE. That is correct, Mr. Presiding Officer.

MR. NOLLEDO. In case of education, certain schools may reject enrollees who are illegitimate children. And if we adopt the Commissioner's proposal, this will go against that rule.

MR. DAVIDE. That is correct, Mr. Presiding Officer. Precisely we would like to avoid discriminations simply because of the misfortune of a child, which misfortune is not of his own making.

MR. NOLLEDO. Then in that regard, it seems to me - correct me if I am wrong - that with respect to employment, we have adopted the rule that there should be no unjust discrimination in employment under existing labor laws. Would that rule cover the Commissioner's proposal?

MR. DAVIDE. That would be now covered but we must realize that when we adopted the provision on labor in the Article on Declaration of Principles, as well as on Social Justice, it did not embody the provision of the existing 1973 Constitution regarding discrimination on the grounds of sex, race, creed or political status or conditions. In other words, as approved, the provision on labor does not enumerate anymore the bases for possible discriminations, unlike the provision of Section 6 of the Article on Declaration of Principles of the 1973 Constitution where we have the enumerations. And so, this will now in effect remedy the situation but relating more specifically to children.

MR. NOLLEDO. Mr. Presiding Officer, with respect to education, the rule that everybody should have equal access to education is likewise covered by his proposal?

MR. DAVIDE. As a matter of fact, this particular proposal is necessary to supplement or amplify the particular provision on education.

MR. NOLLEDO. Would it be appropriate to say that social protection is earned and should not be imposed by legal mandate?

MR. DAVIDE. Mr. Presiding Officer, it is not that it may not be imposed but we are framing a Constitution to provide for a directive policy or directive principles of state policy. There is no harm in making it as a directive principle or a state policy, especially if it would affect lives of citizens who, I would like to state again, are not responsible for a misfortune in life.

MR. NOLLEDO. Will the Gentleman be amenable to a suggestion in his proposal to state clearly that there should be no unjust discrimination against children on the use of their filiation?

MR. DAVIDE. Mr. Presiding Officer, "discrimination" may be enough because if we say "unjust discrimination" it might allow some kind of discrimination.

MR. NOLLEDO. We can delete the word "unjust." I am recommending this to make it more specific. Then we can mention the areas where discrimination may take place, like employment and education.

MR. DAVIDE. I would be very willing to accept the proposal.

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

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Monsod is recognized.

MR. MONSOD. The reason that seems to be established by Commissioner Nolledo is that this kind of provision will prevent the government from putting as a qualification for employment that people must be legitimate children. I do not think that is a proper basis for putting a constitutional provision on the speculation that government is going to put these restrictions on employment, a provision in the Constitution to pre-empt such possibility. I think it is kind of foolish to think that the government will put a condition on employment that the people must be legitimate children.

Second, we are putting into the Constitution a very convenient cause of action for people to invoke the Constitution for not getting a job or not being admitted into any association because he happens to be illegitimate. It is a convenient excuse for him to say, "It was because I was illegitimate that I was discriminated against."

Third, I do not think we should put sections in the Constitution on the ground that no harm will be done by putting them there. If that is the reason we are going to put sections in the Constitution, our Constitution is going to be 2,000 pages long because I can think of a lot of no-harm provisions. No harm putting it there, as an excuse; I do not think this is the kind of constitution we like to write.

May I just ask for clarification? Regarding the expression "social protection," does this refer to protection under the law?

BISHOP BACANI. Yes, Mr. Presiding Officer.

MR. GUINGONA. Against discrimination whether just or unjust:

BISHOP BACANI. Yes, all discrimination.

MR. GUINGONA. Therefore, would this provision also include non-discrimination, as far as the law is concerned, with respect to inheritance? In other words, under the Civil Code, an illegitimate child would be entitled to less share than the legitimate child and because of this proposal that would become unconstitutional?

BISHOP BACANI. I think the idea here is to enable the child to get the minimum protection that he would need in order to live a life of dignity, and when it comes to inheritance, he should receive a part

of the inheritance also which would allow him to live with dignity. But it would not necessarily mean that he would have to have the same inheritance as the legitimate children.

MR. GUINGONA. But then, if he would not have the same inheritance there will be discrimination. And we are talking of discrimination which, according to the interpellation, could be either unjust or just.

BISHOP BACANI. Yes, we may have to revise that. Commissioner Davide said that all discrimination is unjust; yet, I think, if the discrimination does not amount to any injustice at all, then it would not be discrimination in the sense we ordinarily use it, but a differentiation in treatment which is not necessarily unjust.

MR. GUINGONA. So now, we have two interpretations, Mr. Presiding Officer. One is that it could be any kind of discrimination; the other interpretation is that it must be an unjust discrimination. I am a little confused.

BISHOP BACANI. Yes, I think that would have to be the sense of it because we are only looking for social protection that would insure for this particular person, the illegitimate child in this instance, a life of human dignity.

MR. GUINGONA. But would not social protection that is referred to here already be covered under the Bill of Rights when we speak of equal protection of the laws? Therefore, a child, whether legitimate or illegitimate, would be entitled to equal protection of the laws? Why do we have to still go into specifics? If we go into specifics about illegitimate children, we may have to go into specifics about other classes of people. I think the equal protection of the laws already covers sufficiently the protection that we envision. That is why I ask the question, Mr. Presiding Officer. I thought the Gentleman might have a larger or a broader concept of protection, but these way I look at it the protection that he is envisioning is already covered sufficiently by the equal protection clause under the Bill of Rights.

BISHOP BACANI. It may not always be covered. There were some instances mentioned which are not at all imaginary.

MR. GUINGONA. Will the Gentleman give an example, Mr. Presiding Officer?

BISHOP BACANI. The discrimination that are possible, for example, are the ones regarding the school.

MR. GUINGONA. The school may require for admission the submission of birth certificates only to determine the citizenship of the student, especially if the student has a foreign surname.

Thank you, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Rama is recognized.

MR. RAMA. I think we should go back to the original provision in the Article on Human Rights. The controversies arose from the fact that the provision, particularly the phrase "social protection," has been given a meaning wider than that contemplated in the provision in the Article on Human Rights.

In other words, if we widen the meaning of social protection, then it creates a lot of controversies and disputes and some aberrations probably. But if we stick to the meaning, as found in the original provision in the Universal Declaration of Human Rights, perhaps that provision would have logic and reason and validity to be placed in the Constitution.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Tan is recognized.

MR. TAN. Mr. Presiding Officer, I would like to express my stand against the proposed resolution for two reasons. As expressed, I find it superfluous; as not expressed, I find it nebulous. And I question very much the example Commissioner Rama gave about schools not accepting illegitimate children because never in my experience have we not accepted illegitimate children.

MR. RAMA. May I answer, Mr. Presiding Officer? I have been alluded to.

THE PRESIDING OFFICER (Mr. Rodrigo). Yes, Commissioner Rama may proceed.

MR. RAMA. I know for a fact that there are schools, particularly Catholic schools, that would not admit illegitimate children and there is a very valid reason. The reason is this: We have this very embarrassing situation where the illegitimate and the legitimate children of the same father are enrolled in the same school because normally, the second wife or the live-in wife would like to enroll also her children in the same school. This is very embarrassing during the graduation exercises. So I do not blame the schools for adopting this policy.

MR. COLAYCO. Mr. Presiding Officer, may I ask Commissioner Rama some questions?

THE PRESIDING OFFICER (Mr. Rodrigo). Although I believe that we have sufficiently discussed the matter, Commissioner Rama may accede to some questions.

Commissioner Colayco is recognized.

MR. COLAYCO. I do not wish to imply that I do not take the Gentleman's words as truthful. Will he mention one school where this is practiced?

MR. RAMA. I would not like to mention schools because it might not be fair. But I know for a fact that there are schools, if we make just a cursory investigation, that require the children to present their certificate of birth for purposes of verifying that the legitimate and the illegitimate children of the same father are not in the same school.

MR. COLAYCO. I can mention a particular school where this is not done although it involved an illegitimate son of a former President of the Philippines.

MR. RAMA. Is that so?

MR. COLAYCO. Yes.

MR. RAMA. Could he mention that school and the President?

MR. COLAYCO. Ateneo de Manila. (Laughter).

The widow of the President raised a howl when she learned that the illegitimate son of her husband, the former President, was admitted to that school. But the school stood pat saying that this was a democratic country and that everybody was free to come and be admitted.

THE PRESIDING OFFICER (Mr. Rodrigo). The Chair believes that the matter has been sufficiently discussed and that the body should now vote on the amendment.

BISHOP BACANI. Yes, Mr. Presiding Officer.

MS. NIEVA. Yes, Mr. Presiding Officer.

MR. UKA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Uka is recognized.

MR. UKA. May I say a few words? What is an illegitimate child? Is he one who was born out of wedlock?

BISHOP BACANI. Yes.

MR. UKA. What about the children of Adam and Eve? Adam and Eve were never married. They were looking for a priest or a minister and they could not locate one. Why are we very much against illegitimate children? In fact, when Jesus said, "Suffer little children and forbid them not to come unto me." He did not say "suffer little legitimate children." It is not the fault of the child when two people romantically interlock themselves and then create a child. We cannot choose our parents, neither can we choose our relatives. There were also many illegitimate children of the world who became very great men and women. Why do we put the stamp of illegitimacy on children and punish them as such? I think we should be more sober and reasonable for it is not their fault.

I also want to say, in connection with this, that we should be much kinder towards children. We should not apply the term "illegitimate" to them. I am also against this so-called "birth control." If Adam and Eve practiced birth control or if our parents practiced birth control, there would be no great Senator Rodrigo sitting up there; no great Floor Leader like Commissioner Rama; (Laughter and applause) nobody even to clap for me and no Commissioner Uka to speak on the floor on this subject and all of us will not be here today. We should be reasonable.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Are we now ready to vote, Mr. Floor Leader?

MR. RAMA. We are ready to vote, Mr. Presiding Officer.

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Guingona is recognized.

MR. GUINGONA. Mr. Presiding Officer, I do not think that those who are speaking against the proposal are blaming the illegitimate children. What we are saying is that the provision refers to the protection by the State and as far as we can see, there is no discrimination if we accept the replies during the interpellation. There is no discrimination that has been pointed out. If there is any discrimination at all, it is a discrimination that is found in society and this is something that the Senate is not supposed to control or supposed to protect against in accordance with the proposed provision.

We realize that the illegitimate children are the victims and they are not to blame for their status. But I am afraid that this kind of provision, in accordance with the reply given to me, might even extend to the matter of inheritance. This kind of provision might be an encouragement to illegitimacy.

Thank you, Mr. Presiding Officer.

BISHOP BACANI. Mr. Presiding Officer, this is not an encouragement to illegitimacy but only a protection against neglect.

MR. MAAMBONG. Mr. Presiding Officer.

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

MR. MAAMBONG. If we are thinking of adding protection in the provision, I would just like to indicate that under our present laws, especially in the Civil Code, there are already provisions not only in the law on succession but also in specific provisions of the Civil Code and I would like to point them out.

Article 359 of the Civil Code specifically provides, and I quote:

The government promotes the full growth of the faculties of every child. For this purpose, the government will establish, whenever possible:

- 1) Schools in every barrio, municipality and city where optional religious instruction shall be taught as part of the curriculum at the option of the parent or guardian;
- 2) Puericulture and similar centers;
- 3) Councils for the Protection of Children; and
- 4) Juvenile courts.

Also, Article 360 provides;

The Council for the Protection of Children shall look after the welfare of children in the municipality.

It then enumerates no less than seven functions. Article 361 even mentions the creation of juvenile courts.

So I feel that there are ample protection already embodied in our laws.

Thank you, Mr. Presiding Officer.

MR. NOLLEDO. Mr. Presiding Officer, I would like to amend the proposal of Commissioner Davide, if he is amenable.

MR. DAVIDE. May we have the amendment, Mr. Presiding Officer.

MR. NOLLEDO. My amendment is, in effect, an amendment by substitution, Mr. Presiding Officer. The amendment reads as follows: "THERE SHALL BE NO DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK."

MR. DAVIDE. May I leave it to the committee, having accepted my proposal.

BISHOP BACANI. Mr. Presiding Officer, the meaning that is given by Commissioner Nolleddo seems to be wider than that intended by the committee. Let me just confer with Commissioner Nieva.

MR. NOLLEDO. A similar provision, Mr. Presiding Officer, is found in the Universal Declaration of Human Rights.

BISHOP BACANI. We would prefer to stay with this provision as we had interpreted it during the interpellations, especially in the interpellation of Commissioner Guingona, because we did point out that there is what we might call discrimination that is not necessarily unjust, a differentiated treatment.

THE PRESIDING OFFICER (Mr. Rodrigo). The committee does not accept the amendment.

BISHOP BACANI. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Does Commissioner Nolleddo insist on his amendment?

MR. NOLLEDO. Mr. Presiding Officer, I think Commissioner Davide is amenable if I use the term "SOCIAL DISCRIMINATION." So that it will read: "THERE SHALL BE NO SOCIAL DISCRIMINATION AGAINST CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK."

MR. DAVIDE. I am acceptable to that because we limit really the mantle of protection to social protection.

BISHOP BACANI. Yes, if the sense is according to the meaning of the interpellation of Commissioner Guingona, we would accept the amendment.

MR. NOLLEDO. It is in accordance with the observations of Commissioner Guingona.

BISHOP BACANI. Yes.

MR. NOLLEDO. Mr. Presiding Officer, I would like to impress upon the Members of the Commission that the provision in the Universal Declaration of Human Rights is substantially the same as the original proposal recommended by Commissioner Davide. It reads: "ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK SHALL ENJOY THE SAME SOCIAL PROTECTION."

We cannot deny, Mr. Presiding Officer, that there is really discrimination against illegitimate children everywhere in all sectors of society. We would like to raise the level or status of an illegitimate child whose existence in the world is not his fault. We would like to destroy that attitudinal discrimination being practiced everywhere in the world dictated by human frailty and weakness. I think we would be giving protection to a child as we did give protection to even an unborn child.

Thank you, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). May I know the stand of the committee on this?

BISHOP BACANI. We accept the amendment in the sense that has just been explained, Mr. Presiding Officer, and in the light of the responses to the interpellation of Commissioner Guingona.

MR. NOLLEDO. Yes, thank you, Mr. Presiding Officer.

BISHOP BACANI. Will the Gentleman kindly restate his amendment.

MR. NOLLEDO. "THERE SHALL BE NO SOCIAL DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK."

MR. MONSOD. May I just ask a clarification, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Monsod is recognized.

MR. MONSOD. Is this provision applicable to the government or to everybody.

MR. NOLLEDO. It is applicable to everybody. It is a notice to the whole world.

MR. MONSOD. How do we enforce it?

MR. NOLLEDO. As I said, we are raising the level of the status of the illegitimate child. For example, discrimination can take place in employment even in the government. We do not expect the government to pass a law that will discriminate against illegitimate children. Even in offices of the

government I know as a fact that if one is illegitimate, the employer raises a quizzical eyebrow about his status. Discrimination will always exist everywhere. We do not need any law that will implement it.

MR. MONSOD. Therefore, this constitutional provision will prohibit people from raising their eyebrows?

MR. NOLLEDO. No, Mr. Presiding Officer, that is only a metaphor.

THE PRESIDING OFFICER (Mr. Rodrigo). All right, I think we are ready to vote. The committee has accepted the amendment.

MR. GUINGONA. Mr. Presiding Officer, with allusion to the Universal Declaration of Human Rights, this is a document which has no binding effect as far as other states are concerned. It does not mean that simply because we find the rights included there we would have to include all the rights. As a matter of fact, there is one right here that was proposed yesterday, the right of asylum, but this body turned it down.

In other words, I do not think the argument that simply because it is found in the Universal Declaration of Human Rights this should necessarily be included in our Constitution. Besides, with respect to the question of Commissioner Monsod, if we are going to prohibit discrimination and it is not only the State that is affected, would there be sanctions? Are we going to penalize, fine or imprison a person who allegedly looks down upon an illegitimate child? Would that be covered by this particular provision where any appearance of discrimination could be subject even to penal sanctions?

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

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Jamir is recognized.

MR. JAMIR. I want to raise a point of order, Mr. Presiding Officer.

Under Section 33 of our Rules, we have this provision:

No Member shall occupy more than fifteen minutes in debate on any question or speak more than once on any question without leave of the Constitutional Commission.

I would like to raise that point of order so that our debates may be shortened, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Yes, We are in the period of amendments. As a matter of fact, there is a specific rule regarding discussions on the period of amendments. But the attitude of the Chair has always been liberal, although I have been looking at the time and we have been enforcing the three-minute rule.

MR. NATIVIDAD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Natividad is recognized.

MR. NATIVIDAD. I have not violated the rules yet. So I just want to ask one question that is in my mind.

If we approve this matter now pending. I would like to ask Commissioner Nolleto if this would not bring about or make possible the passage of a disclosure act, whereby people are asked whether they are legitimate or not.

MR. NOLLEDO. It will not, Mr. Presiding Officer.

MR. NATIVIDAD. In the application for jobs or anything of this matter? What is the intendment of the amendment?

MR. NOLLEDO. It will not, Mr. Presiding Officer.

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

THE PRESIDING OFFICER (Mr. Rodrigo). Are we ready to vote?

MR. RAMA. The body is ready to vote, Mr. Presiding Officer.

MR. MAAMBONG. Just a parliamentary inquiry. Mr. Presiding Officer. The original proposed amendment reads "CHILDREN REGARDLESS OF FILIATION SHALL ENJOY EQUAL PROTECTION."

Now, there is an amendment by Commissioner Nolleto which varies with the whole nature of the proposed amendment, and it now reads: "THERE SHALL BE NO DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK."

Just to keep the parliamentary situation in its proper place, I would like to know from Commissioner Davide if he is accepting this entire amendment to his proposed amendment.

BISHOP BACANI. The wording says: "THERE SHALL BE NO SOCIAL DISCRIMINATION AGAINST ALL CHILDREN WHETHER BORN IN OR OUT OF WEDLOCK."

MR. DAVIDE. Mr. Presiding Officer, I agree with the position of the committee that it will not, in any way, affect the previous provision that has been approved by the body.

MR. RAMA. The body is now ready to vote, Mr. Presiding Officer.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). I think the proposed amendment is clear.

As many as are in favor, please raise their hand. (Few members raised their hand.)

As many as are against, please raise their hand. (Several members raised their hand.)

The results show 7 votes in favor and 16 against; the proposed amendment as amended, is lost.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. This is also an amendment submitted by Commissioner Davide and it says: "GIFTED CHILDREN AND THE PHYSICALLY AND MENTALLY HANDICAPPED SHALL RECEIVE SPECIAL STATE ATTENTION." We would like to throw that to the body, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). The Chair would like to know if this is a committee amendment.

BISHOP BACANI. No, this is not a committee amendment, Mr. Presiding Officer. This is an amendment by Commissioner Davide.

THE PRESIDING OFFICER (Mr. Rodrigo). Does the committee accept the amendment?

BISHOP BACANI. We would like to throw it to the floor for decision, Mr. Presiding Officer.

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

MR. TINGSON. Mr. Presiding Officer, this amendment that we have just defeated and the one that is now being proposed, I do not think there is a Commissioner here who would say this is a bad idea. And I am one of those. Certainly, we desire to give our children the best in life. There is no question about that. Most of us here are parents and we are all in favor of proposals like these.

I join, however, the expression already articulated here that perhaps provisions like these are best expressed and articulated by legislation - legislation that will be based on the principles and policies that we are writing in the Constitution.

Therefore, personally, Mr. Presiding Officer, although I like the idea very much, I would vote against it because I am convinced that this provision properly belongs to Congress later on.

MR. SARMIENTO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Sarmiento is recognized.

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

May I just invite the attention of Commissioner Davide to a provision in the Article on Education. We have this provision which reads:

Scholarships, grants-in-aid or other forms of incentives shall be provided to deserving science students, scientists, inventors, technologists, and especially gifted citizens.

Would Commissioner Davide not agree with me that his proposed amendment is covered by this particular section?

MR. DAVIDE. Let me ask this way, does the Commissioner believe that it is covered?

MR. SARMIENTO. Yes, Mr. Presiding Officer.

MR. DAVIDE. Is it also the thinking of the committee that that is covered, whether directly or indirectly? In other words, it could be implemented by virtue of the Article on Education.

BISHOP BACANI. It can be but, I think, with special reference then to science students.

MR. DAVIDE. To gifted children.

BISHOP BACANI. Yes.

MR. DAVIDE. Now, with the admission of the committee and Commissioner Sarmiento, on the interpretation of the Article on Education, I am prepared to withdraw and I am withdrawing the proposed amendment.

THE PRESIDING OFFICER (Mr. Rodrigo). So, the proposed amendment is withdrawn.

The Floor Leader is recognized.

MR. RAMA. May I ask Commissioner Bacani to state the last amendment.

BISHOP BACANI. The last one as submitted by Commissioners Sarmiento, Davide, Bacani, and Rosario Braid states: "THE STATE SHALL PROVIDE SPECIAL PROTECTION AND CARE TO MOTHERS DURING PREGNANCY AND MATERNITY AND SHALL RECOGNIZE THE SOCIAL VALUE OF THE WORK IN THE HOME.

THE PRESIDING OFFICER (Mr. Rodrigo). Is this a committee amendment?

BISHOP BACANI. It is accepted by the committee, Mr. Presiding Officer, but it is not a committee amendment.

THE PRESIDING OFFICER (Mr. Rodrigo). So, it is an amendment accepted by the committee.

Commissioner Sarmiento is recognized.

MR. SARMIENTO. Mr. Presiding Officer, this is a new provision. The Article on Social Justice refers to working mothers. That provision is limited to working mothers.

This provision is all-embracing to cover non-working mothers. Mothers have a special place in our hearts. It is but important that we give importance to mothers especially during pregnancy and after maternity. That is the thrust of this provision, Mr. Presiding Officer.

BISHOP BACANI. Mr. Presiding Officer, may I also add a comment to the latter part of this proposed provision.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. It states: "AND SHALL RECOGNIZE THE SOCIAL VALUE OF THEIR WORK IN THE HOME." This has been requested by women and some Members of the Commission and the idea of recognizing the social value of their work in the home is that, in the estimate, for example, of the GNP, we will take it into consideration so that it will not be said that they are only working in the home.

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

MR. TINGSON. Mr. Presiding Officer, only yesterday we finally approved the Article on the Declaration of Principles. Section 9 says:

The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution. the State shall equally protect the life of the mother and the life of the unborn from the moment of conception.

This means that if we protect the life of the unborn, naturally the mother's life is similarly protected. Furthermore, it says:

The natural right and duty of parents in the rearing of the youth for civic efficiency in the development of moral character shall receive the aid and support of the government.

Section 10 states:

The State recognizes the vital role of the youth in nation-building and shall promote their physical, moral, spiritual, intellectual, and social well-being.

For this purpose, the State shall inculcate in the youth nationalism, patriotism and involvement in the affairs of the nation.

Mr. Presiding Officer, similarly, I would say, with due respect to my friend who is proposing this, a very knowledgeable young Commissioner and perhaps a future leader of our country, that that is already covered in the provisions mentioned. With due respect to the Commissioner, I would also vote against that not because we are against the idea, but because it would unnecessarily lengthen our Constitution.

MR. MAAMBONG. Mr. Presiding Officer.

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

MR. MAAMBONG. Just one question to the committee or the proponent.

Is this a demandable right?

BISHOP BACANI. Yes, when there is a case of neglect of the mothers during pregnancy and maternity. If the Gentleman means that by demandable right we can ask the State to give this to us or to see to it that this is given to us, I believe it can be demanded.

MR. MAAMBONG. In other words, against whom will you demand this right, Mr. Presiding Officer?

BISHOP BACANI. Against the State.

MR. MAAMBONG. In other words, we can file an action against the State if the mother who's pregnant, for example, is not taken care of. I can just imagine the effect of this. Every mother in this country will be filing a case against the State and I do not think the government can absorb this kind of burden, Mr. Presiding Officer.

BISHOP BACANI. I think that that is not the sense. The idea is to make the state aware of the importance of protecting them during the time of pregnancy.

May I ask the help of Commissioner Sarmiento who is the proponent of this particular paragraph.

MR. SARMIENTO. I am claiming no exclusive paternity to this provision. This provision is sponsored by seven other Commissioners. I personally believe that this will be demandable right. We have many mothers in the rural areas who die because of sufferings during and after the period of delivery. There are no hospitals, no doctors in these rural areas and because of that the mortality rate of mothers is very high. So, the purpose of this provision is indeed to give recognition and protection to mothers.

MR. MAAMBONG. Mr. Presiding Officer, I just want to be clarified on whether this is really a demandable right in the legal sense of the word or it is merely an aspiration. Because if we say it is a demandable right, I fear for the government because as of now, as pointed out by the Commissioner, there are so many pregnant women in our countryside who can ill afford to go to the hospital and they are dying everyday. I should know because I come from a barangay. And if this is a demandable right as stated by the Commissioner, how can the government absorb this burden if all these pregnant women who are not taken care of will go to court and file a case on the basis not of an ordinary law but of a constitutional precept? That is my problem.

MR. SARMIENTO. Considering the situation of our country, what we can say is that at this point in time, that principle is an aspiration. It is a goal that we wish to achieve.

MR. MAAMBONG. Thank you for that more truthful answer, Mr. Presiding Officer.

MR. RAMA. Mr. Presiding Officer.

MR. GUNGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Guingona is recognized.

MR. GUINGONA. Mr. Presiding Officer, I would have no serious objection or reservation with respect to the first part, especially if we pass in the Article on General Provisions the proposed provision that this government cannot be sued without its consent. But I was wondering with regard to the second part which says: "AND SHALL RECOGNIZE THE SOCIAL VALUE OF THEIR WORK AT HOME." Aside from including the woman-hour to the GNP, how else could the State recognize the social value, Mr. Presiding Officer?

BISHOP BACANI. By way of promoting the scheme on the role of women in the home. For example, it will work towards conditions that will enable the woman, if she so desires, to stay in the home and perform her maternal function rather than be forced to work outside the home.

MR. GUINGONA. But is that not already covered under other provisions regarding the protection that will be given to women, whether working or not?

BISHOP BACANI. No, there is nothing in the Constitution at present which sort of advises the State to help the women, if they so desire, to stay in the home and do their work there because there are now compelling conditions that practically force women to work outside their homes for financial survival to such an extent that at present if they just work in the home, it seems that they are not really contributing to family income.

MR. RAMA. Mr. Presiding Officer.

MR. GUINGONA. Just one question, Mr. Presiding Officer.

I do not see how the government can extend this recognition without any financial burden. Would the Commissioner envision some kind of a subsidy to women who are not working because they are staying at home and attending to their maternal duties? Because that is the only way the State can give recognition, aside from perhaps giving certificates, but this is all meaningless. I was asking for some definite, tangible and meaningful recognition that the State could give, and I frankly could not think of any.

BISHOP BACANI. The Commissioner mentioned what was already cited by the women earlier that in the computation of the GNP; the number of hours of work that they do in the home should be taken into consideration. Now, the second thing that I spoke of is helping set conditions so that they will not be forced to work outside the home.

MR. RAMA. Mr. Presiding Officer.

MR. GUINGONA. Will all of these require a constitutional provision. Can this inclusion in the GNP not be done without a constitutional provision?

Thank you, Mr. Presiding Officer.

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

MR. RAMA. The body is now ready to vote, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Is the proposed provision clear?

BISHOP BACANI. May I read it, Mr. Presiding Officer. It states: "THE STATE SHALL PROVIDE SPECIAL PROTECTION AND CARE TO MOTHERS DURING PREGNANCY AND MATERNITY AND SHALL RECOGNIZE THE SOCIAL VALUE OF THEIR WORK IN THE HOME."

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). As many as are in favor, please raise their hand. (Few members raised their hand.)

As many as are against, please raise their hand. (Several members raised their hand.)

The results show 12 votes in favor and 15 against; the proposed amendment is lost.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, since we are through with the Article on Human Rights, I move that we proceed to the discussion of the Article on General Provisions.

MR. MONSOD. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Monsod is recognized.

MR. MONSOD. I just wanted to make a manifestation that Sections 1 and 2 of the Article on Family Rights, as approved, are overlapping. I suggest, if the committee is willing, that we endorse this to the Committee on Style without changing the substance of the two sections.

MR. RAMA. Mr. Presiding Officer, may we listen or hear how the revised version would read so that we may know if there is any objection?

MR. MONSOD. I was just thinking that maybe Section 1 should read: "THE STATE RECOGNIZES THE FAMILY AS THE BASIC AND AUTONOMOUS SOCIAL INSTITUTION OF THE NATION, ACCORDINGLY, IT SHALL STRENGTHEN ITS SOLIDARITY AND ACTIVELY PROMOTE ITS TOTAL DEVELOPMENT."

Section 2 should read: "Marriage is the foundation of the family and shall be protected by the State."

MR. RAMA. So it is a restyling.

THE PRESIDING OFFICER (Mr. Rodrigo). The suggestion is properly recorded.

THE PRESIDING OFFICER (Mr. Rodrigo). The proper committee would take note of that in the performance of their duties later.

MR. MONSOD. Mr. Presiding Officer, there is one other amendment. I do not know if the committee or the body needs to vote on this, but in Section 3 (d), I think it is going to be very hard to operationalize a consultation mechanism where we give rights to families. Family association seems to be in order, but to give rights to families of which there must be about 8 or 9 million families, anybody who is a family can claim to a right to be heard, and that will result in chaos.

MR. RAMA. That would be a subject of motion for reconsideration.

THE PRESIDING OFFICER (Mr. Rodrigo). Yes, that has been passed already.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). So, it is not the problem of the Committee on Style anymore.

MR. DE CASTRO. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner De Castro is recognized.

MR. DE CASTRO. Thank you.

Shall we put this as a separate article or part of the Declaration of Principles?

THE PRESIDING OFFICER (Mr. Rodrigo). What is the suggestion of the committee?

MS. NIEVA. Our desire is that it be a separate article, but where it should be attached, where it really belongs, we leave to the Sponsorship Committee.

MR. DE CASTRO. So, whether it will be a separate article or part of some other articles, the Sponsorship Committee and the Style Committee have been given the leeway to determine that?

MS. NIEVA. Provided it remains, yes.

I think it is the Sponsorship Committee.

MR. DE CASTRO. Mr. Presiding Officer, the matter of having a new article in our Constitution is not a prerogative of the Style nor of the Sponsorship Committee. There is nothing in their power, under our Rules, to do that.

MS. NIEVA. Yes. It is the desire of the committee that this be a separate article. We did not say that decision on that should be left to the Sponsorship Committee, it just where to place the separate article that we would leave to the Sponsorship Committee.

MR. DE CASTRO. As I understand it, the committee is not definite as to whether to make this a separate article.

MS. NIEVA. Excuse me, we have maintained that from the very beginning we hope this will be a separate article. That was the primary assumption.

MR. DE CASTRO. Then, Mr. Presiding Officer, I move that we vote on whether this should be a separate article or part of the Declaration of Principles or the General Provisions.

THE PRESIDING OFFICER (Mr. Rodrigo). May we have the motion of the Commissioner.

MR. DE CASTRO. I move that the Article on Family Rights should not be placed in a separate article but be included in either the Article on the Declaration of Principles or in the Article on General Provisions.

THE PRESIDING OFFICER (Mr. Rodrigo). I think such a motion is in order. So the motion is in the negative that the Article on Family Rights should not be included in a separate article. So, if the "Yes" votes prevail, then the Article on Family Rights will not be a separate article.

MR. DE CASTRO. Yes, Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). If the "No" votes prevail, the Article on Family Rights will be a separate article.

MR. DE CASTRO. Yes, Mr. Presiding Officer.

MR. COLAYCO. Point of order, Mr. Presiding Officer.

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

MR. COLAYCO. The motion of Commissioner de Castro apparently includes two subjects because he says it should be transferred either to the Article on the Declaration of Principles or to the Article on General Provisions.

MR. DE CASTRO. I took away the last portion of my motion and proposed that the Article on Family Rights not be in a separate article.

THE PRESIDING OFFICER (Mr. Rodrigo). Should not be a separate article?

MR. DE CASTRO. Not a separate article in our Constitution.

THE PRESIDING OFFICER (Mr. Rodrigo). Yes, that was how I explained it. So are we now ready to vote on that?

BISHOP BACANI. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Bacani is recognized.

BISHOP BACANI. May we just say that we would very much want to have this as a separate article because the purpose of creating a subcommittee on the Article on Family Rights was precisely to highlight the importance of the family in our society and Constitution.

THE PRESIDING OFFICER (Mr. Rodrigo). May the Chair make a suggestion? I think a motion is better worded affirmatively.

REV. RIGOS. Yes.

THE PRESIDING OFFICER (Mr. Rodrigo). So may we ask Commissioner de Castro to withdraw his motion?

MR. DE CASTRO. I withdraw my motion.

THE PRESIDING OFFICER (Mr. Rodrigo). Will the Gentleman state it in the affirmative?

MR. DE CASTRO. That the provisions on the Article on Family Rights which we approved today be placed in some other article that we have already approved in the Constitution?

MR. GUINGONA. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Guingona is recognized.

MR. GUINGONA. May I say that this motion is ambiguous because it does not tell us where. I think perhaps what we should do now is to try to discuss where. There are two possibilities that have been mentioned: one is the Article on Social Justice and the other one is the Article on General Provisions so that when a motion is made, it will be a definite motion.

MR. DE CASTRO. I will make it more definite for Commissioner Guingona to understand. I move that the provisions on the Article on Family Rights which we approved today be part of the Article on General Provisions.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Guingona is recognized.

MR. GUINGONA. Mr. Presiding Officer, I object because in the first place, the proponent has not explained why he wants to put it under the Article on General provisions. Second, I think we should have a discussion. Those who might be suggesting that it should be in another article should be allowed to explain why they think it should be in another article before we vote on this.

MR. DAVIDE. Mr. Presiding Officer.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Davide is recognized.

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

MR. DE CASTRO. Mr. Presiding Officer, it is not for another Commissioner to ask that we vote on another motion. I have a motion. I put it on the floor.

THE PRESIDING OFFICER (Mr. Rodrigo). Yes, we will put that to a vote but I think Commissioner Davide wants to comment on that motion.

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

Under Rule II, Section 8 of our Rules on Committees, we have the provision under item no. 17, page 7 of our Rules which reads:

Committee on sponsorship, 15 members - all matters pertaining to the formulation and final draft of the Constitution, the correction, harmonization of proposals for the purpose of avoiding inaccuracies, repetitions and inconsistencies, and the arrangement of proposals in a logical order, but the committee shall have no authority to change the sense, substance or purpose of any proposal referred to it, and the sponsorship of the final draft of the Constitution.

I believe, Mr. Presiding Officer, that since one of the functions of the committee is the arrangement of proposals on a logical order we should leave the matter of the placement of the approved articles according to what the Sponsorship Committee believes would be logical.

MR. GUINGONA. I agree with the observations.

THE PRESIDING OFFICER (Mr. Rodrigo). The committee believes there is a more basic question.

Would Commissioner de Castro agree with the Chair if we put this to a vote.

MR. DE CASTRO. Separate article. Yes, I will agree to that.

THE PRESIDING OFFICER (Mr. Rodrigo). Commissioner Gascon is recognized.

MR. GASCON. Mr. Presiding Officer, before we vote, the committee wishes to express its hopes that the body will give its approval of the committee's proposal to have it as a separate article because as we have already mentioned, we feel that the family as a basic social unit should be given its recognition in this Constitution. Also, there are other countries throughout the world like Brazil, Ireland, West Germany, Cuba and Portugal who have had separate articles as well on the family.

Thank you.

THE PRESIDING OFFICER (Mr. Rodrigo). So, we will now vote on whether or not to incorporate this Article on Family Rights in a separate article.

MR. ROMULO. Mr. Presiding Officer, just a point of information. How many sections are there finally?

THE PRESIDING OFFICER (Mr. Rodrigo). May we know from the committee how many sections are there now?

MS. NIEVA. There are three major sections.

THE PRESIDING OFFICER (Mr. Rodrigo). Four sections with four subsections.

MR. ROMULO. Thank you.

VOTING

THE PRESIDING OFFICER (Mr. Rodrigo). So, let us vote on the motion to incorporate the provisions on the Article on Family Rights under a separate article.

As many as are in favor, please raise their hand. (Several members raised their hand.)

As many as are against, please raise their hand. (few members raised their hand.)

The results show 16 votes in favor and 7 against; the motion is approved.

The provisions on the Article on Family Rights will be under a separate article, and where to place it will be entrusted to the Sponsorship Committee.

The Floor Leader is recognized.

MR. RAMA. Mr. Presiding Officer, I move that we take up for consideration the Article on General Provisions.

MS. NIEVA. Before we close, Mr. Presiding Officer, we just would like to express our appreciation and our thanks to all the Commissioners who have formulated and strengthened this very significant Article on Family Rights which, I think, is now one of the most important and fundamental articles in our new Constitution (Applause).

FRAMERS OF THE 1986 CONSTITUTION

Hon. Yusup R. Abubakar
Lawyer/Diplomat

Hon. Hilario G. Davide, Jr.
Lawyer/Educator

Hon. Ahmad Domocao Alonto
Lawyer/Educator

Hon. Crispino M. de Castro
Lawyer/Brig. Gen. (Ret.)

Hon. Felicitas S. Aquino
Lawyer

Hon. Vicente B. Foz
Lawyer/Journalist

Hon. Adolfo S. Azcuna
Lawyer/Linguist

Hon. Florenz D. Regalado
Lawyer/Business Executive

Hon. Teodoro C. Bacani
Bishop

Hon. Rustico F. delos Reyes
Lawyer

Hon. Ponciano L. Bennagen
Anthropologist

Hon. Cirilo A. Rigos
Religious Minister

Hon. Jose F.S. Bengzon Jr.
Lawyer/Businessman

Hon. Francisco A. Rodrigo
Lawyer/Journalist

Hon. Joaquin G. Bernas
Lawyer/Educator

Hon. Ricardo J. Romulo
Lawyer/Business Executive

Hon. Florangel Rosario Braid
Journalist/Educator

Hon. Decoroso R. Rosales
Lawyer

Hon. Lino O. Brocka
Film Director

Hon. Rene V. Sarmiento
Lawyer

Hon. Jose D. Calderon
Lawyer/Business Executive

Hon. Jose E. Suarez
Lawyer

Hon. Jose C. Colayco
Lawyer

Hon. Edmundo G. Garcia
Educator/Writer

Hon. Roberto C. Concepcion
Jurist

Hon. Luis Martin C. Gascon
Student Leader

Hon. Serafin V.C. Guingona
Lawyer/Educator

Hon. Alberto M.K. Jamir
Lawyer

Hon. Jose B. Laurel Jr.
Lawyer/Educator

Hon. Eulogio R. Lerum
Lawyer/Labor Leader

Hon. Regalado E. Maambong
Lawyer

Hon. Christian S. Monsod
Lawyer/Economist

Hon. Teodulo C. Natividad
Lawyer/Criminologist

Hon. Ma. Teresa F. Nieva
Civic Leader

Hon. Jose N. Nolleto
Lawyer/Writer

Hon. Blas F. Ople
Journalist

Hon. Ambrosio B. Padilla
Lawyer/Writer

Hon. Cecilia Munoz Palma
Jurist/Educator

Hon. Minda Luz M. Quesada
Nurse/Educator

Hon. Napoleon G. Rama
Lawyer/Journalist

Hon. Lorenzo M. Sumulong
Lawyer/Politician

Hon. Jaime S.L. Tadeo
Farmer Leader

Hon. Christine Tan
Nun/Civic Leader

Hon. Gregorio J. Tingson
Religious Minister

Hon. Efrain B. Trenas
Lawyer/Educator

Hon. Lugum L. Uka
Lawyer/Educator

Hon. Wilfredo V. Villacorta
Educator

Hon. Bernardo M. Villegas
Economist