

Fault, Consent and Breakdown—The Sociology of Divorce Legislation in the Philippines

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Divorce is the dissolution or suspension of the marital relation. Where the marriage is dissolved and the parties are free to marry again, the divorce is said to be absolute. On the other hand, where the marital relation is only suspended, so that the spouses are not free to remarry any other persons, the divorce is a relative one, being generally referred to as a legal separation.¹

Philippine law presently allows only legal separation. If Filipinos secure divorces abroad in states that permit such divorces, such divorces will be valid only in the said states. These are, however, not recognized in the Philippines, because "laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad."²

Thus, if a Filipino secures an absolute divorce in the state of Nevada, he will still be unable to contract a second marriage here in the Philippines. As far as

our laws are concerned, he is still a very much married person. Should he therefore contract a second marriage, he may be prosecuted for bigamy.

This, however, was not always the case. Absolute divorce was once allowed in the Philippines. Social convention in the past two decades has been such that the idea of restoring divorce in our civil law has been publicly frowned upon, if not necessarily privately eschewed.

This is understandable. The very Catholicism of the principles which a majority of Filipinos hold fast to sustains the indissolubility of the marriage tie. It is the object of this paper to trace the history of divorce legislation in the Philippines, explore the sociological implications of such laws and examine the various theories which have been constantly re-echoed in the past and at present concerning the valid causes or principles of divorce.

History of Divorce Legislation

The *Siete Partidas*, which originally regulated divorce in the Philippines, allowed only relative divorce,³ based on the following grounds: (1) If one of the parties desires to take holy orders and the other grants permission; (2) adultery by the wife or the husband; and (3) the fact that one of the parties becomes a heretic, a Mohammedan or a Jew.⁴

³ *Benedicto v. de la Rama*, 3 Phil. 34; *Francisco v. Jason*, 60 Phil., 442.

⁴ This demonstrates well the religio-ecclesiastical nature of the grounds for divorce then existing.

¹ The definition of divorce given above is more a descriptive than a legal one. Legally, the divorce must be by order of a competent court on a ground provided by law. See Arturo Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines* (Manila: Acme Publishing Co., 1960), Vol. I, p. 278.

Henry Davis, S.J., *Moral and Pastoral Theology*, ed. L. W. Geddes, S.J. (London: Sheed and Ward, 1959), Vol. IV, pp. 228, 238, refers to Absolute Divorce as "Civil Divorce" and Relative Divorce or Legal Separation as "Discontinuance of Cohabitation."

For purposes of this study, absolute divorce will simply be referred to as "Divorce" and relative divorce as "Legal Separation," although the reader is cautioned to bear in mind the distinctions between the two.—Author's Note.

² *Civil Code*, article 15.

Act No. 2710 (passed on March 11, 1917) allowed only absolute divorce on the grounds of conviction of adultery on the part of the wife and concubinage on the part of the husband.⁵

The Japanese Occupation Government merely enlarged the grounds for absolute divorce already existing under Act No. 2710. Executive Order No. 141 was issued, providing ten grounds for absolute divorce: (1) adultery on the part of the wife and concubinage on the part of the husband; (2) attempt by one spouse against the life of the other; (3) a second and subsequent marriage contracted by either spouse before the former marriage has been legally dissolved; (4) loathsome contagious disease; (5) incurable insanity which has reached such a stage that intellectual community between the spouses has ceased; (6) criminal conviction of either spouse of a crime in which the minimum penalty imposed is not less than six years' imprisonment; (7) intentional or unjustified desertion continuously for one year; (8) unexplained absence for three years; (9) repeated bodily violence of such nature that the spouses cannot continue living together without endangering the lives of both or one of them; and (10) slander by deed or gross insult to such an extent as to make further living together impracticable.⁶

This remained in force until October 23, 1944 when, upon the proclamation by General Douglas MacArthur of the revival of the Commonwealth Government, all laws passed by the Japanese Military Administration ceased to have any further legal effect, and the laws of the Commonwealth prior to the war were once again rendered fully effective.

Finally, the Congress of the Philippines passed the new Civil Code of the Philippines which took effect on August 30, 1950. Only legal separation was al-

lowed by the Civil Code, based on only two grounds: (1) adultery on the part of the wife and concubinage on the part of the husband; and (2) an attempt by one spouse against the life of the other.⁷ Absolute divorce was thereby eliminated.

Adultery is committed by any married woman who shall have sexual intercourse with a man not her husband,⁸ while concubinage is committed by any husband who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman not his wife, or shall cohabit with her in any other place.⁹ Unlike Act No. 2710, the Civil Code does not require a previous conviction for these offenses as a pre-requisite for bringing an action for separation. Furthermore, when the law speaks of an attempt on the life of one of the spouses, the offense envisioned is one of either attempted or frustrated parricide.¹⁰

Divorce and the Family

The original draft of the present Civil Code contained provisions covering both absolute and relative divorce. In the course of congressional debate, the chapter on Absolute Divorce was totally eliminated, indicating an intention to prohibit such divorces. The name "Relative Divorce" was itself changed, upon the representation of women's groups into the better sounding "Legal Separation" in order to avoid the implication which the word "Divorce" carries.¹¹

The deletion of the provisions on absolute divorce merely reflects the trend which Filipino Family Law has taken during the past two decades. The Code Commission undertook to draft a code

⁷ *Civil Code*, article 97.

⁸ *Revised Penal Code*, article 333.

⁹ *Ibid.*, article 334.

¹⁰ See *Ibid.*, articles 246 and 260, for the legal definition and description of the offense of parricide.

¹¹ Tolentino, *op. cit.*, 280.

⁵ Act No. 2710, section 28.

⁶ Executive Order No. 141, section 2.

which would be responsive to Filipino values, attitudes and practices. Primary among these constituents of the national value system is the solidarity of the family.

One cannot fully comprehend how the Code Commission could, in the same breath that it made provisions for the purpose of better securing this solidarity, have provided at the same time for provisions on Absolute Divorce. Evidently, the current law then in force, Act No. 2710, was taken great consideration of.

The law conceives of the family as a basic social institution which public policy cherishes and protects.¹² The law governs family relations. No custom, practice or agreement which is destructive of the family shall be recognized or given any effect.¹³

Thus, while legal separation is allowed under the law, the courts take great pains to prevent the occurrence of such separations. For this reason, an action for legal separation must be filed within one year from the knowledge of the offended party of the cause thereof and in every case within five years from the time of the occurrence of the cause for legal separation.¹⁴ In no case may the trial of the action for legal separation be held before six months shall have elapsed from the filing of the petition for legal separation.¹⁵

It is obvious here that the law seeks to accomplish two things: *first*, it seeks to prevent the filing of such actions after the lapse of a considerable time, on the premise that the passage of time indicates pardon or condonation of the offense by the offended party; and *second*, it provides a six-month cooling-off period before the hearing of the petition, in the

hope that the spouses, estranged though they may be, can come together and reconcile their differences, it being believed that time can best dispel the heat of passion.

The law goes further. If reconciliation occurs before the grant of the final decree of legal separation, the proceedings will stop immediately. If it takes place after the separation has already been decreed, then the decree is rescinded (i.e., revoked) and without any effect.¹⁶ Thus, even if legal separation has already been obtained, once the parties are reconciled, the suspension of the marital relation shall be lifted, and the marriage continues in full force and effect as if the separation had never taken place at all.

Courts and the judges who occupy them are admonished by the law to take steps, before granting the legal separation, toward the reconciliation of the spouses, and must be fully satisfied that such reconciliation is highly improbable¹⁷ before all further action is taken on the matter.

Executive Order No. 141¹⁸ during the Japanese Occupation was a device employed by the belligerent occupant to weaken the solidarity of the family; its calculated employment is in effect a recognition of the importance of family solidarity and in-group unity as parts of the Philippine value system. For under this executive order, divorce was made as easy as possible to obtain, to the end that families might break asunder from marital strain, and that ultimately, the national state (of which the family is the basic social unit) might itself grow weak.

The Threefold View of Civil Marriage

Marriage is looked upon as both an institution, an act and a status. It is

¹² *Civil Code*, article 216.

¹³ *Ibid.*, article 218.

¹⁴ *Ibid.*, article 102.

¹⁵ *Ibid.*, article 103.

¹⁶ *Ibid.*, article 108.

¹⁷ *Ibid.*, article 98.

¹⁸ See *supra*, note 6.

treated not as a mere contract but as an inviolable social institution whose nature, consequences and incidents are governed by law and not subject to the agreement or stipulation of the parties thereto.¹⁹

It is the act by which a man and a woman unite for life with the intent to discharge towards society and one another those duties which result from the relations of husband and wife.²⁰ It is, furthermore, the civil status of one man and one woman legally united for life with rights and duties which, for the establishment of families and the multiplication and education of the species are, or from time to time, may thereafter be assigned by law to matrimony.²¹

These three aspects make up the classic view of civil marriage. Any consideration of marriage must therefore bear in mind the interests of the spouses, the children which they procreate and those of society itself.

As far as the parties themselves are concerned, the marital relation gives rise to the duty of the husband and wife to live together, observe mutual respect and fidelity, and render mutual help and support.²² Where children are born to the married couple or are adopted by them, there also arise rights and obligations on the part of both the parents and the children. Society feels itself concerned with the marriage inasmuch as the family is the basic social tissue which sustains and perpetuates it.

Owing to these considerations, marriage becomes more than a mere matter of the spouses' convenience. The law seeks to protect it, not so much for the benefit of the spouses, but in order to preserve and enhance the interests of

both their children and other descendants and those of society. For this reason, civil law does not consider impotence as an absolute bar to marriage. Impotence merely makes the marriage a voidable one, that is, it is valid until annulled by the courts. The marriage is not void *ab initio* and knowledge of the impotence at the time of the celebration of the marriage would preclude the right to ask for its annulment. There is therefore a recognition that sexual intercourse and copulation alone do not justify a marriage;

the purposes of marriage are said to be (1) reproduction, (2) education of the offspring, and (3) mutual help. The immediate purpose is the constitution of a complete and perfect community between two individuals of different sexes; the remote purpose thereof is the preservation of the human race.²³

Marriage has other purposes than mere procreation. The spouses, in the absence of children, may even find their way towards adopting one.

In its operational aspects, marriage must be examined from two sides: (1) internally and (2) externally. The conjugal bond (that is, "the internal sense of obligation and privilege, respect, affection or sexual attraction existing in the mind and heart of each spouse")²⁴ represents the internal aspect of marriage. Whatever be this bond, whether it be internal motivation or external compulsion,²⁵ the existence of the bond is conducive to the development of family life and may very well find reflection in the attitudes, habits and values of the offspring. Pope Pius XI presents some arguments for the indissolubility of the marriage tie thus:

Whenever the bond remains intact, there we find marriages contracted

¹⁹ *Civil Code*, article 52.

²⁰ Cited in Eduardo P. Caguioa, *A Syllabus of Civil Law* (Manila: Central Book Supply, Inc., 1962), Vol. I, p. 18.

²¹ *Ibid.*

²² *Civil Code*, article 109.

²³ Tolentino, *op. cit.*, p. 204.

²⁴ Frank Lynch, S.J., "The Conjugal Bond Where the Philippines Changes," *Philippine Sociological Review*, VIII, pp. 48-51.

²⁵ *Ibid.*, p. 50.

with security and safety, while, when separations are considered and the dangers of divorce are present, the marriage contract itself becomes insecure, or at least gives ground for anxiety and surprises. On the one hand we see a wonderful strengthening of goodwill and cooperation in the daily life of the husband and wife, while, on the other, both of these are miserably weakened by the presence of a facility of divorce. Here we have at a very opportune moment a source of help by which both parties are enabled to preserve their purity and loyalty; there, we find harmful inducements to unfaithfulness. On this side we find the birth of children and their tuition and upbringing effectively promoted, many avenues of discord closed among families and relations, and the beginnings of rivalry and jealousy easily suppressed; on that, very great obstacles to the birth and rearing of children and their education, and many occasions of quarrels, and seeds of jealousy sown everywhere.²⁶

Externally, marriage involves the relation between the family and the rest of society. The state, as the guardian of society, feels that it must therefore be concerned with this relationship. Pope Leo XIII perhaps looked at the implications of absolute divorce from too wide a light:

Divorce... leads, as experience shows, to vicious habits in public and private life, [and] is particularly opposed to the well-being of the family and the State. The serious nature of these evils will be the more clearly recognized, when we remember that, once divorce has been allowed, there will be no sufficient means of keeping it in check within any definite bounds. Great is the force of example, greater still that of lust; and with such incitements it cannot but happen that divorce and its consequent setting loose of the passions should spread daily and attack the souls of many like a contagious disease. . . .²⁷

But he expressed a point well worth keeping in mind: the danger of abuse.

If one is to allow the matter in the first place, it may eventually reach such proportions as to be unmanageable. This is true of divorce in many countries, where the grounds for divorce sound almost silly and humorous in the variety and gravity (or levity) of the situations which they cover.

The Querida System

Illicit relationships outside the pale of both civil and ecclesiastical law are frowned upon in Philippine society. But attitude and practice do not always turn out to be the same. It would be naive to suppose that these do not occur.

The law, in the case of the husband, is far from fool-proof. Legally, the keeping of a *querida* does not even give rise to a ground for legal separation until it amounts to concubinage. Thus, if he should see his mistress from time to time without cohabiting with her openly, or if he should have sexual intercourse with her under circumstances which are less than scandalous, or if he should not maintain his mistress in the same dwelling as his legitimate wife, the latter cannot even bring an action for legal separation against him in court. His conduct does not amount to concubinage as defined by the Revised Penal Code.

She may, of course, as a last resort, simply leave him and refuse to cohabit with him, which would be a separation *de facto*. But this does not solve all of her problems. There are the custody of the children and the problem of support to think of. In such cases, the technicalities of the law appear to be nothing but sheer obstructions. One thing, however, is forgotten in the attack on legal technicalities. These are meant to give time for the spouses to reconsider their decisions and to prevent them from acting too hastily. This may not be much of a saving grace, but there it is.

²⁶ Davis, *op. cit.*, p. 242.

²⁷ Cited in *Ibid.*, pp. 242-243.

The keeping of a mistress or *querida* is a proximate possibility. Where children result from the relationship, the illegitimacy of their status does not preclude their maintenance by their illegitimate father. Should the father die leaving an estate, his illegitimate children are entitled to share in the inheritance, of which share they may not be dispossessed by the legitimate children, since their shares are provided for by the law itself.

This was not so before the present Civil Code. Before August 30, 1950, illegitimate children enjoyed no successional rights whatever. However, when the Code took effect, the framers foresaw the inequity and the injustice of the situation. They believed that the illegitimate children should not be punished for the transgressions or moral faults of their parents. Thus, they have been given rights to the inheritance left by their illegitimate parents as a way of repairing this breach in the law, and to lighten the unfortunate nature of their situation, which they had no part in bringing about.

In making such provisions, the law recognizes the existence of the *querida* system. It is doubted whether the maintenance of mistresses will ever completely go out of fashion in any day and age. Reduction of the occurrences of the system requires partly the stringent and watchful eye of the law and partly the development of a stronger moral fiber.

It may also happen that not only does the husband maintain a mistress, but the wife likewise has a paramour. Where both are guilty of doing the same things, neither of them can come and ask for a legal separation, much less for a divorce, even if it were permitted. It is believed that he who comes to court must come with clean hands. If both their hands are stained with a common guilt, the court will not entertain them.

The *querida* system is disruptive of the family as an institution. It corrodes

relations between husband and wife, and this may eventually lead to the disruption of their relations with their children. As a social fact, therefore, it is to be condemned. Not only is it morally wrong, but its long-term effects may ultimately prove pernicious. But people do it, and the law, in such cases, can only try and pick up the pieces, attempt to reconcile spouses who have become estranged from each other, and protect the children of both.

The question presents itself—which is worse, the introduction of absolute divorce or the continued perpetuation of the *querida* system? An answer to this question must be a disjunctive one, for a direct, categorical answer is both imprudent and unwise.

From the social aspect, it would seem that the *querida* system would involve greater harm than the allowance of divorce. The children of each marriage would at least be legitimate, and the provision of adequate legal regulations and sanctions would minimize the harmful effects of such divorces. But there is also a negative side to the matter. Divorce would jeopardize the welfare of the children of the original and even subsequent marriages.

Before one even attempts to consider the allowance of absolute divorce, one should first examine the social implications of these divorces in the countries which have allowed them for some time. Divorce prejudices the normality of the lives of the children. It may be a source of social embarrassment or *hiya*, not necessarily for the spouses, but for their children. In the countries where divorce is allowed, the system of divorces has been subjected to grave abuse.

It is a recognized fact that no matter how stringent and strict the law may be in the regulation of such matters, there will always be ways and means of go-

ing around the law. Potential evaders of the law develop very creative faculties.

From the moral aspect, it would seem that the allowance of divorce would merely mean the substitution of one evil for another. Is this morally justifiable? Would the prudent application of the principle of double effect have any relevance to such a substitution? These are questions for moralists to answer. If one is both a moralist and sociologist at the same time, he may find his dilemma insoluble, for social and moral justification are not the same things.

Even presuming that absolute divorce would minimize the occurrence of the querida system, there is no guarantee that it will eliminate it. Divorce would be easy for the wealthy to obtain, since they will be able to afford it in spite of the financial obligations which it may entail. Poor couples, on the other hand, may decide to avoid the idea completely, in the belief that it will be cheaper and less bothersome to maintain a querida than to support two or more wives. Thus, divorce would not afford an absolute and complete cure for the ills spawned by the querida system.

Theories on the Causes for Divorce

Three theories have been advanced to date concerning the causes which may justify divorce: the principle of fault, the principle of consent and the breakdown principle. Roman law recognized the dissolution of the marital bond by the mutual consent of the parties. Due to the abuse which attended this ground, it was subsequently abolished by the *Corpus Juris Civilis* as a ground for divorce. The supremacy of the Church in the Middle Ages did away with the idea of divorce, impressing all the more the idea of indissolubility.

The Church maintained this opposition even at the cost of losing England when the Pope refused to allow Henry VIII to divorce Catherine of Aragon. In 1792, the French National Assembly resurrected the ground of mutual consent and added incompatibility of character as a cause for divorce. Divorce was again abolished in 1816 in France, and again revived in 1884. From France the idea of divorce moved to other European countries and then to the United States.²⁸

In discussing fault, consent and breakdown as principles, one must bear in mind that these were not meant to be mutually exclusive. What happens often is that there is a cross-application of these principles in the determination of the causes for divorce. *All of them rest, however, on the assumption that divorce, whether absolute or relative, is allowed. Were it otherwise, there would be no reason whatever for even discussing them.*

The Principle of Fault

This principle may be stated thus: a spouse at fault may not have any recourse to divorce; it remains for the innocent spouse, when the other is at fault, to obtain the divorce. Corollary to this is the idea that if both spouses are at fault, neither may ask for a divorce. And if neither spouse is at fault, divorce is likewise not permissible.

Each spouse, being a party to the marriage, has a moral responsibility to abide by the terms of the marriage, and to ob-

²⁸ Tolentino, *op. cit.*, pp. 278-279.

It is not to be inferred from this, however, that divorce is a peculiarly western concept. All that this brief history on divorce tries to do is to show how divorce as a legal concept has been handed down to Philippine legal history. Our present Civil Law is of primarily Spanish origin. The latter was derived from the Napoleonic Civil Code, which in turn was based on Roman and Romanesque concepts and codes of Civil Law. In all this, therefore, it is best to remember that even before the Spanish regime, there were already customs and rules of tribal usage on the matter in the Philippines.

serve the rights and obligations corresponding to it. The violation or non-fulfillment of this duty gives the other spouse, who is at fault, a right to ask for the dissolution of the marriage or a least a legal separation from the guilty spouse.

The difficulty with this principle is that it looks upon marriage, not as an inviolable social institution, an act or a status, but as a mere contract. Since rescission and annulment of contracts are allowed in case of violations of their terms or the non-fulfillment of their conditions, this principle assumes that marriage, like any other contract, may be so dissolved, and the parties freed from the effects thereof. This difficulty arises only when one considers absolute divorce, since it appears justifiable in the case of legal separation, where the marriage ties are not severed.

But is marriage just a mere contract? Philippine law does not view it as such. A mere contract is for the convenience of parties. When the law steps in to enforce the contract, it does so primarily to preserve the faith of the public in the obligations of contracts, not because it is particularly interested in any of the parties.

Marriage, however, is an entirely different matter. The state finds reason to concern itself with marriage because it is the means by which families are commenced. The family being the basic unit of society, the institution of marriage is not just a matter of their convenience. They beget children, and the state becomes even more concerned, for these are future citizens and progenitors of families, and the state (through its laws) feels that it must protect them if it is to ultimately protect itself.

The Principle of Consent

The application of this principle may blend with the principle of fault or it

may totally ignore it. It may be stated thus: when relations between husband and wife reach a point where they feel that the marriage is of little consequence to them, then they can agree to terminate the relationship by *mutual* consent.

This again assumes the contractual nature of marriage. The parties enter into marriage of their free and voluntary will, and end marriage in the same fashion, by mutual agreement. If A and B get married, giving their consent thereto, then they can, by both withdrawing that consent, apply for the annulment of the marriage.

What makes difficult the actual application of this principle is the fact that, quite often, the consent is not mutual, and therefore divorce cannot take place. One of the parties may be unwilling to end the relation, whether the reason be one of social convenience, economic stability or even "nobler" motives. For this reason, exponents of this principle believe that it is most effective if combined with the principle of fault. For even if one party is unwilling to end the marriage, if he is the party at fault, then the other spouse can make use of the fault principle to obtain a divorce.

The Breakdown Principle

While the idea of fault and the principle of consent have enjoyed a long-standing use among exponents of divorce, the breakdown principle is comparatively a newer concept. When the relationship between the spouses has so deteriorated that further cohabitation becomes difficult, if not impossible, then divorce should be allowed, according to its proponents.

The Swiss Civil Code of 1907 (section 14) makes the deterioration of marriage a ground for divorce for either spouse "if it has gone so deep that the spouses must not be expected to cohabit." The breakdown principle is, however,

blended with the fault theory insofar as deterioration, predominantly due to the fault of one spouse, disables that spouse from being the plaintiff in a divorce action.²⁹

The West German Marriage Act of 1946 states:

Where the domestic community of the spouses has ceased to exist for three years, and where by virtue of a deep-seated and irretrievable disruption of the matrimonial relationship the restitution of a community of life corresponding to the nature of marriage cannot be expected, either side may apply for divorce.

Where the spouse who makes the application has been wholly or overwhelmingly responsible for the disruption, the other spouse may object to the divorce. Such disruption is to be disregarded where the maintenance of the marriage is not normally justified considering the proper estimate of the character of marriage and the total behaviour of both spouses.

*The application for divorce is to be refused where the properly understood interests of one or several minor children of the union demand the maintenance of the marriage.*³⁰

The West German Marriage Act seems to be only one step ahead of present divorce legislation. If we were to allow divorce here in the Philippines, it would seem that the safeguards provided by the act and the qualifications thereto, particularly those in the interest of the minor children, are well worth considering. This is, of course, presupposing that we will ever have occasion to pass a new divorce law here.

For the laws cited were made for countries different from ours. Their cultures bear a different stamp, as do the intricacies of the principles which sus-

tain the moral life of the community. Such differences are important. We cannot undertake to imitate the laws of others without a knowledge of the moral and social bases of such laws.

Law and Society

Each society is ultimately responsible for the character and quality of its own laws. No one can legislate for us, just as we would not even dare to think of legislating for others. We know our own frame of mind best. Even within Philippine society, we have undertaken to take note of basic differences in the cultures of our various peoples. We distinguish, even in our laws, between Mohammedans and Christians. The moral codes and practices of these two religious groupings differ. Congress (in 1949) thus saw fit to recognize this fact by passing Republic Act 394, which provided that "for a period of twenty years" from 1949, "divorce among Moslems residing in non-Christian provinces shall be recognized and governed by Moslem customs and practices."

What are we to gather from such a law? The evident intent of Congress is to respect the beliefs and practices of a people which may be based on moral codes and social practices different from our own.

The law, it is said, must be a living thing. When changes occur in society, then the law must respond to those changes if it is to fulfill its vital functions of ordering relations in society and eliminating friction between the different segments of that society.

Has change occurred to justify the allowance of divorce in the Philippines? Is it, in the first place, the proper remedy? Would not stricter sanctions on illicit relationships solve the current situation in a much better fashion? These are questions which the sociologist must

²⁹ Wolfgang Friedmann, *Law in a Changing Society* (Berkeley: University of California Press, 1959), p. 211.

³⁰ *Ibid.* (Italics are mine. JMJ).

answer before choosing any side in the fray. There is large elbow room for research on these matters. Judges, social scientists, social workers—all these have something to contribute to the mind of the researcher.

It is felt by some that if spouses are given ample time to work out their personal difficulties, marriages will be saved and children spared the shame and the difficulties brought upon them by the estrangement and divorce or separation of their parents. Divorce would give too ready a remedy, especially where the laws are lax and easy. Human nature be-

comes ever too willing to grasp at the nearest available log, instead of trying to work out plausible solutions to the stormy voyage on the marital sea.

Eventually, the sociologist must come back to the dictum that each case must be studied individually. Each case calls for its own solution. Behavioral patterns are worked out only after the bases for those patterns have been closely scrutinized and analyzed. Only after all these can one claim the right to speak of human behavior, or propose solutions to social problems.

Moslem Values: A Challenge to Education*

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In this paper the term "Moslem" is used in a narrow sense referring to the Maranaws, the Moslem Filipinos who constitute the major portion of the population of Lanao. This province has now been divided into Lanao del Norte and Lanao del Sur. "Values" mean those rules of conduct by which the members of a group shape their behavior and from which they derive their hopes.¹ Considered as such, values serve among others, the functions of (1) giving the group a common orientation and supplying the basis not only of individual action but of unified, collective action as well, (2) serving as the basis for judging the behavior of individuals, and (3) fixing the sense of right and wrong, fair

and foul, desirable and undesirable, moral and immoral.

Moslem Values: Their Source. The attitudes and practices of the Lanao Moslems stem from traditional Mohammedanism, the words of the *Koran*, the Moslem *Bible*. The Moslem interpretation of such injunctions and dispensations are reflected in their attitudes and behavior. A number of Maranao practices will clarify this point.

(1) *Polygyny.* The Maranaws practise polygyny which finds support in some local customs. Having two or more wives is considered a sign of affluence, an indication of importance. The size of land that a man owns and the number of carabaos that he possesses indicate his economic status, as they do in other parts of the Philippines. But in Maranao society even more indicative of such status is the number of wives that a man can and does support.

* Interest in this subject derives from the fact that the author was once a Jolo Moslem who has lived among Moslems all his life.

¹ B. Othanel Smith, William O. Stanley, and J. Harlan Shores, *Fundamentals of Curriculum Development*, rev. ed. (Yonkers-on-Hudson, New York: World Book Company, 1957), pp. 59-61.