



Part 7 The Family & Family Relations

Support, Parental Authority, Emancipation & Age of Majority
Review Guide

Persons & Family Relations
University of the Philippines
College of Law

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(1) Recall the Constitutional Policy on the Family (Sec 12, Art.11, Sec1, Art. XV)

- Describe the state mandate to protect the family. What does it mean for the state to recognize the family as a basic autonomous social institution?
- What does it mean for the state to promote family solidarity?
- Consider the lack of support for HB 3227 (Moses Law) and the RH bill vis a vis the aforesaid policies.

(2) How would you interpret Art. 149 vis a vis the CEDAW and General Recommendation No. 21?

HB 3227: <http://newsinfo.inquirer.net/breakingnews/nation/view/20080115-112447/House-bill-filed-providing-safe-haven-for-unwanted-babies>

- Family Relations, Art. 150
 - Recall duty/entitlement of support, Art. 195-197
 - “Illegitimate Children” See also RA 9255
 - Does the law change the requirement regarding proof of filiation?
- Earnest efforts for compromise (suit between family members), Art. 151 (when applicable and when not applicable) See Civil Code Art.2035

Parental Authority

(1) Concept

- Note distinction between the Roman Law notion and influence of Christianity (Sempio-Dy, p.350), Look at Art. 220-221
- Reyes v Alvarez 8 Phil 723 / Art. 209

(2) Renunciation/Transfer

- General Rule: Not allowed
- Exceptions: Adoption, Guardianship & Commitment of the Child; See also VAWC RA 9262 and the role of the DSWD (Art 217)

(3) Exercise of Substitute Parental Authority, Art. 223-224

In default of parents or appointed guardians

- Surviving grandparent
- Older Brother or sister over 21 unless unfit or disqualified
- Actual custodian unless unfit or disqualified

Art. 218-219 Concept of *Loco Parentis* – will be closely studied in Torts class. Applies in this case to school/administration/those in its employ.

Art. 225-227 will be discussed in detail in the law on Trust (under Obligations & Contracts)- The rule covers the rules on property owned by children and the rights & obligations of parents in relation to their child's property.

(4) Rights and Duties, Art. 220-221

-See Art. 176 exception to joint parental authority (mother)

(5) Supreme Court Cases

Espiritu v CA

-Read the facts of the case closely. The court here awarded custody to the father but it was exercised by his sister in his absence.

-Mother's "immoral Conduct"

Gualberto v CA

-When may the tender years presumption be overcome/how?

Also see Briones v Miguel Oct 18 2004, Cervantes v Fajardo 169 SCRA 575, Medina v Makabali 137 Phil 329 and (review) Unson v Navarro

Loss of Parental Authority

(1) Loss of Parental Authority:

- Permanently, Article 228; See also 234 (3); 236 (Emancipation); 232 (Sexual Abuse) FC;
 - Final Judgement ,Art. 229
 - Suspension, Art. 230-231 (See also 223 par. 2)

(1) Disciplinary Measures on Children, Art. 223-224; Adopted Art. 191, 193; See in relation to 135 and 141

Note the Concluding Comments of the Convention on the Rights of the Child, Philippines:
<http://www.unhcr.org/refworld/type,CONCOBSERVATIONS,CRC,PHL,3ae6af4b30,0.html>



Part 8 Paternity and Filiation

Legitimacy, Adoption, Summary Proceedings

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Legitimacy

(1) Concept, Art. 163-165; 168 presumption

-Premises/biases: marriage, succession rights

-Review RA 9255

-Legitimation, Concept (Who can be

legitimated? How? Who cannot be

legitimated?), See Art. 37, 38 vis a vis Art. 54;

Effects Art. 179-181; Impugning legitimacy:

Art. 182

Consider the classification of legitimate/illegitimate children in the light of the CRC.

(2) Filiation, definition Art. 163

What is the difference between filiation/legitimacy?

Distinguish : An action to claim legitimacy/ Proof of Filiation

-The CC used to have a sub-classification/categories of illegitimate children: natural, natural by legal fiction, spurious

Adoption

- (1) RA 8552, Rep v CA 205 SCRA 356
- (2) CRC: “The Philippines accepts the principle that adoption is impressed with social and moral responsibility and that its underlying intent is geared to favor the adopted child.”
- (3) Who may adopt? Who may be adopted?
What is the exception to the prohibition of adoption when the age difference is less than 16 years? When may aliens adopt?

(4) Who may rescind the decree of adoption?
What is inter-country adoption?