

The Removal of Divorce: Civil Law Reform and Divorce Debates in the Mid-Twentieth Century Philippines, 1943–1950

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Abstract

This article examines the factors that explain the present status of the Philippines as one of the two remaining countries, alongside Vatican City State, where *absolute divorce* (marriage is dissolved; can remarry) is not legally recognized. After gaining independence, the Code Commission (1947) was formed to create a new *Civil Code of the Philippines*, intended to reform civil law, align it with the nation's emerging identity, and depart from colonial legal legacies. Absolute divorce was removed from the original draft of the *Civil Code* during its deliberation in the First Congress in 1949. The *Civil Code* was enacted as *Rep. Act 386* on June 18, 1949, which took effect in 1950. Unknown to many, however, the Philippines had two absolute divorce statutes: *Act No. 2710* (1917) during the U.S. colonial regime and *Exec. Order No. 141* (1943) under the Japanese occupation. Through examining a range of archival materials from congressional records to print media sources, this article demonstrates that Filipino lawmakers held complex and diverse opinions on absolute divorce, yet their arguments were commonly framed in terms of Catholic morality and preserving domestic happiness in Filipino families. It also argues that high divorce incidences (both during the Japanese period and in global divorce trends), election politics (1949 Philippine general elections), alongside the opposition coming from the Catholic church and Filipino women, served as decisive factors to abrogate absolute divorce. Instead, Congress institutionalized *legal separation* (marriage is not dissolved; cannot remarry) – a framework of marital separation that has endured from 1950 to the present.

Keywords: *divorce, legal separation, civil law, legal history, Philippines*

It is a common fact and distinction that the Republic of the Philippines, alongside Vatican City State, is one of the two remaining countries that do not legally recognize *absolute divorce* (marriage is dissolved; can remarry). There is, however, *relative divorce* (marriage is not dissolved; cannot remarry) commonly referred to in the Philippine legal system as *legal separation*.¹ The subject of absolute divorce is gaining traction again, especially a proposed bill on the same subject was approved by the House of Representatives of the 19th Congress on its third and final reading: 131 in favor, 109 against, and 20 abstains on May 24, 2024 (Cervantes, 2024). This endeavor had little success in the previous congressional session but there was overwhelming support back in the 17th Congress (Valmonte, 2024). Unfortunately for pro-divorce lawmakers, then-President Rodrigo R. Duterte was clear in his stance against absolute divorce (Ranada, 2018). Legal history reveals an untold but interesting and complex development of divorce laws. The periodization of divorce in the Philippines follows an alternating pattern which is as follows: absolute divorce during the precolonial times, relative divorce [*divorcio* in Spanish] from 1565 to 1917 (Spanish colonial regime towards the first half of the U.S. colonial period), absolute divorce from 1917 to 1950 (second half of the U.S. colonial period and Japanese occupation), and relative divorce [legal separation] since 1950 towards the present time.

The *first shift* from absolute to relative divorce [*divorcio*] occurred in the beginning of the Spanish colonial period. In the early Spanish legal system, the Spanish legal term *divorcio* was commonly understood as relative divorce because the marriage [*matrimonio*] was based on the canon law of the Roman Catholic church.² Canon law prescribes the doctrine of indissolubility as a major characteristic of Catholic marriage. According to the 24th session of the Council of Trent, the marriage bond is “perpetual and indissoluble.” Thus, Spanish missionaries considered the precolonial practice of absolute divorce [*paghihiwalay* in Filipino/Tagalog] as an obstacle to the conversion of Filipinos to the Catholic faith (Chirino, ca. 17th century/2010, p. 111; Colin, 1663, p. 72; Aduarte, 1640, p. 157; De Jesus, 1580/1906, p. 323).

In the present article, I am particularly interested in the *second shift* from absolute to legal separation in the mid-twentieth century which leads us to the present situation as one of the last nations without absolute divorce. This development deserves special attention. The

1 In the Philippines, the single-word term “divorce” is commonly understood by Filipinos to mean “absolute divorce.” However, it can also refer to “relative divorce,” which is less familiar in the country as it is more commonly known by its legal term, “legal separation.”

2 It was on March 2, 1932, when the Second Republic of Spain legislated its first absolute divorce statute (Payne, 1993, pp. 83-84).

Civil Code of the Philippines serves as the foundation for much of the civil law including persons and family relations in the postcolonial era. The development of a new code fell into the hands of the Code Commission headed by one of the country's prominent lawyers at the time, Jorge Bocobo, in 1947 and deliberated later by the First Congress of the Philippines from 1948 to 1949.

Atty. Deogracias T. Reyes' "History of Divorce Legislation in the Philippines since 1900" (1953) remains the only published work about the legal history of divorce in the Philippines. He simply described the philosophies behind the arguments between those who supported or opposed absolute divorce which he characterized as a "clash of traditional and 'liberal' philosophies" (p. 55-57). However, he did not identify events or contexts that may have shaped the opinion of lawmakers in removing absolute divorce from civil law.

Using a range of archival materials from congressional records to print media sources, this article examines the legal and political developments in the 1940s which influenced the removal of absolute divorce: high divorce incidences during the Japanese occupation, global divorce trends, and the politics of the 1949 Philippine general elections. While this article does not employ a gender paradigm in its analysis, it highlights the role of women's groups in the ongoing debates on absolute divorce and its connection to the 1949 general elections. The author hopes that a legal history of divorce may contribute to the reflections of the people and government officials in the divorce discourse today.

Antecedents: Absolute Divorce Statutes in the Philippines during the U.S. Colonial Period and Japanese Occupation Period

The Philippine Legislature enacted the first absolute divorce statute on March 11, 1917, which was *Act No. 2710*, "An Act to Establish Divorce." It was crafted by a full-fledged Filipino lawmaking body as part of the Filipinization policy of the United States since the Philippine Autonomy Act of 1916. The statute was known for its strict requirements providing only two grounds, adultery of the wife and concubinage of the husband (§1) and the requirement of criminal conviction of the courts (§8). Nevertheless, it marked a progressive development in its legal system for permitting the dissolution of marriage in a predominantly Catholic society that scrupulously believed in the indissolubility of marriage for the last three centuries under Spanish regime. This absolute divorce statute remained in force from 1917 through the Commonwealth Philippines during the Presidency of Manuel L. Quezon since 1935.

The invasion of Imperial Japan in December 1941 and the surrender of the United States Army Forces in the Far East in April 1942 marked another beginning in the country's legal history. Japan established the Philippine Executive Commission (PEC) to temporarily govern the islands in their stead headed by Jose B. Vargas, one of the officials that President Quezon asked to stay in the country.³ This brought massive changes to the Philippine legal system overturning many of the existing laws of the Commonwealth. On March 23, 1943, for instance, the PEC issued *Exec. Order No. 141*, "Providing a New Divorce Law." This second divorce statute had an astounding number of eleven grounds which was nine more than what the first divorce statute, Act No. 2710, provided:

1. Adultery on the part of the wife or concubinage on the part of the husband committed under any of the forms described in the Revised Penal Code.
2. Attempt by one spouse against the life of the other.
3. A second or subsequent marriage contracted by either spouse before the former marriage has been legally dissolved.
4. Loathsome contagious disease contracted by either spouse.
5. Incurable insanity which has reached such a stage that the intellectual community between spouses has ceased.
6. Impotency on the part of either spouse.
7. Criminal conviction of either spouse of a crime in which the minimum penalty imposed is not less than six years imprisonment.
8. Repeated bodily violence by one against the other to such an extent that the spouses cannot continue living together without endangering the lives of both or of either of them.
9. Intentional or unjustified desertion continuously for at least one year prior to the filing of the action.

3 Other members of this Commission include Jose P. Laurel, Antonio de las Alas, Teofilo Sison, Rafael R. Alunan, Claro M. Recto, Quintin Paredes, Chief Justice Jose Yulo, Benigno S. Aquino Sr., Serafin Marabut, Francisco Lavides, Justice Jorge C. Bocobo, Manila Mayor Leon G. Guinto, Emilio Aguinaldo, Vicente Madrigal, Ramon Fernandez, former Chief Justice Ramon Avanceña, Miguel Unson, Alejandro Roces, Camilo Osias, Pio Duran, Arsenio Bonifacio, and Jose Veloso (Japanese Military Administration, 1943, pp. xxvi-xxvii).

10. Unexplained absence from the last conjugal abode continuously for three consecutive years prior to the filing of the action.
11. Slander by deed or gross insult by one spouse against the other to such an extent as to make further living together impracticable.

For this reason, the *Tribune* (1943, p. 1) headlined “Divorce Liberalized” on its front page on March 30, 1943. Hartendorp (1967, p. 455) suggests Claro M. Recto, one of the commissioners of the PEC, as the man responsible for crafting the statute. If so, personal experience might have informed his decision to expand the grounds for divorce, as he had divorced his first wife, Angeles Solis, with whom he had four children (Medina & Feliciano 1990, p. xx). This endeavor might have been supported by PEC officials who can be identified as pro-divorce for their previous support on the subject of absolute divorce in the Philippine Legislature during the U.S. colonial period such as Ralph Alunan,⁴ Benigno Aquino Sr., and Camilo Osias.⁵ There is no direct evidence that Japanese authorities initiated the creation of the statute, but it is reasonable to assume they raised no objections given their comparatively liberal attitude toward divorce [*rikon* 離婚]. The traditional family system of Japan was characterized as a “high-divorce system.” It had higher divorce rates than the United States until 1915 (Kumagai, 1983, pp. 88-89). The divorce provisions under the *Meiji Civil Code of 1896* [*Minpō*] listed ten grounds, six of which closely resemble those in the second divorce statute. This suggests that PEC officials may have consulted Japanese civil law as a framework.⁶

According to reports, PEC considered *Act. No. 2710* to have “failed to meet the purpose for which it was enacted” (“Divorce Liberalized”, 1943, p. 1). Thus, *Exec. Order No. 141* was created as an improvement “to place the institution on a more rational basis” (pp. 1, 8) and “to correct the defects and anomalies in the old divorce law and in response

4 Ralph Alunan was representative of Negros Occidental in the Fourth Legislature who voted in favor of the absolute divorce bill in 1917 (Philippine House of Representatives, 1918, p. 659).

5 Benigno Aquino Sr. and Camilo Osias were representatives in the Seventh Legislature who proposed an amendment to relax divorce in 1925 (Macaraig, 1929, pp. 136-137).

6 Comparing the *Exec. Order No. 141* (1943) and *Meiji Civil Code* (1896): the first ground (Phil.) corresponds to the second ground (Japan); the third ground (Phil.) corresponds to the first ground (Japan); the seventh ground (Phil.) corresponds to the fourth ground (Japan); the ninth ground (Phil.) corresponds to the sixth ground (Japan); the tenth ground (Phil.) corresponds to the ninth ground (Japan); and the eleventh ground (Phil.) corresponds to the fifth ground (Japan).

to a deep – though perhaps the inarticulate desire of the people for a remedy to a cancerous social condition” (“New Divorce Law”, 1943, p. 1). Certainly, the second divorce statute “fell like a bomb-shell” when it reached the public (“Divorce Law Stirs”, 1943, p. 1). As quite expected, there were mixed reactions were coming from the Filipinos. Manuela Gay, who was president of the *Catholic Women’s League*, insisted that “the Catholic woman, as in fact every true Catholic, is against divorce” (“Divorce Law Stirs”, 1943). “I protest because the said order is a contradiction to divine law,” a certain Romeo Tambunting wrote in the column *The Public Pulse* (“I Protest!”, 1943, p. 4). On the other hand, a graduate of the University of the Philippines named Florencio Bernabe offered praise, “a liberal divorce law is what this country needs badly” while an office secretary, Ms. Carman Abad, said, “I am in favor of the new law. I believe it will do more good than harm” (“Divorce Law Stirs”, 1943). This statute was short-lived, coming to an end with the return of the United States Army to the Philippines during the final stages of World War II. On October 23, 1944, in Leyte, Gen. Douglas MacArthur, who arrived with President Sergio Osmena, decreed the restoration of the Philippine Commonwealth government and laws including the first divorce statute (Baptista v. Castañeda, 1946).

Reforming and Decolonizing Civil Law: The Task of Jorge C. Bocobo and the Code Commission in 1947

A year after the conclusion of World War II, the Philippines transformed into an independent Republic under President Manuel A. Roxas. The First Congress of the Philippines (1946-1949) was inaugurated consisting of ninety-eight representatives in the House and twenty-three members in the Senate. Apart from rehabilitation of war-torn towns and restoration of peace and order, addressing veteran affairs was considered a priority in the immediate post-war Philippines (Martinez-Santos, 2000, pp. 201, 205). Thus, the former Mayor of Manila turned representative Herminigildo Atienza filed a proposed bill to repeal the strict requirement of *Act No. 2710* which required criminal conviction before the action of absolute divorce. “Veterans came to me,” sympathized Atienza (1946, p. 6), “for help and advice. Quite a number came to me for their marital problems.” He learned from the veterans that their wives abandoned them due to their long absence and lack of financial support throughout the war that their new partners could provide (p. 6). Others, too, sought a similar reform to liberalize divorce. The representative of Agusan Marcus M. Calo proposed to include an additional ground which was “the absence of the spouse for seven years” (Crisologo, 1946, p. 7). Meanwhile, representatives such as Agustin Kintanar of Cebu and Francisco Perfecto of Catanduanes filed their motion to repeal absolute divorce in the legal system (“Catholic Women’s League”, 1947, p. 34; Reyes, 1953, p. 49).

On July 4, 1946, the Philippines gained independence from colonial rule, a turning point that facilitated decolonization and nation-building throughout the postcolonial era. This included the project of reforming civil law which was initially based on the Spanish *Codigo Civil* (1889).⁷ President Manuel A. Roxas signed Exec. Order No. 48 on March 20, 1947, which established the Code Commission, tasked to create a new *Civil Code* considering the objective of an “urgent need for immediate revision of all existing substantive laws of the Philippines and of codifying them in conformity with the customs, traditions, and idiosyncrasies of the Filipino people and with modern trends in legislation and the progressive principles of law.” The Code Commission was composed of Judge Guillermo B. Guevara, law professors Pedro Y. Ylagan and Francisco R. Capistrano, and Jorge C. Bocobo as chairman (Bocobo, 1950/2005, p. 468).

Jorge C. Bocobo was one of the country’s most distinguished lawyers at the time. Born to a middle-class Ilocano family in Tarlac on October 19, 1886, he became one of the first Filipino *pensionados*⁸ and studied law in the United States. Upon returning to the Philippines, he became a faculty member in 1911 in the College of Law, served as college dean from 1917 to 1934, and eventually became the president from 1934 to 1939 of the University of the Philippines (Salamanca, 1985, pp. 204-205). Furthermore, he was also appointed as Associate Justice of the Supreme Court from 1942 to 1944 during the Japanese occupation. Presumably, he was already acquainted with Roxas at the University of the Philippines’ College of Law. They had previously worked together under President Quezon when Bocobo served as Secretary of Public Instruction and Roxas as Secretary of Finance. Both were part of the special committee that drafted the *Filipino Code of Ethics* in 1940 (Code of Ethics Committee, 1940). His appointment as chairman of the Code Commission was well-aligned with his prior advocacy to reform the country’s laws, having already written a legal article, “The Need of a New Civil Code,” (1936) in the *Philippine Law Journal*.

In May 1947, the members of the Code Commission took their oath before the President. It took the Code Commission only eight months to complete the draft from May to December 1947, given their extensive expertise in civil law (Bocobo, 1950/2005, p. 468). On the day of their oath taking, Bocobo recalled that President Roxas had one request.

7 The Spanish *Codigo Civil* continued to be in force from 1889 to 1950 (Balane, 1979, pp. 42-43). However, there are statutes enacted during the U.S. colonial regime that are implied amendments to the *Codigo Civil*, for example, the *Act No. 190, Code of Civil Procedure* (Aug. 7, 1901).

8 Pensionados are Filipino scholars who received support from the U.S. colonial government to study abroad in the United States (Teodoro 1999, p. 157). The legal basis for this is *Act No. 854* (Aug. 25, 1903).

"It was his desire that divorce be not liberalized because, he said, the question was so controversial that it might create bitter dissension among the people" (Bocobo 1978, xxix). Bocobo accepted this request with no hesitation, having earlier expressed his opposition to liberalize the divorce statute in a legal article, "Preserving the Filipino Family," (1929) in the *Philippine Law Journal*. "I am most emphatically against any attempt to introduce easy divorce in the Philippines, by any amendment of the present divorce law" (p. 159). For him, "...so long as the Filipino home retains its traditional solidarity and so long as marriage among our people is a sacred institution, we can feel a certain feeling of pride, even though we are a subject race" (p. 161). Complying with the wishes of President Roxas, the Code Commission copied the provisions of *Act No. 2710* maintaining the same two grounds for divorce, adultery and concubinage, and its stringent requirements (Capistrano, 1950/2005, p. 325). However, Bocobo and the Code Commission envisioned a civil law that truly reflected Filipino culture – a body of law that promotes the unity of the Filipino family, serving as one of its principal reforms (Code Commission 1948/2005, pp. 561-568). Marriage, for the first time, was legally defined as a special contract and an "inviolable social institution" (Civil Code, art. 52). The Code Commission created a new entire section under "The Family" which regulated the Filipino home and established the Family Council (art. 216-254) (Ranera, 2025, pp. 170-172). Most importantly, in addition to *absolute divorce*, the Code Commission reinstated *relative divorce* giving Filipinos the option to separate from their spouse while marriage is intact:

Art. 111. Divorce may be *absolute* or *relative*, as the petitioner may choose.

Art. 112. A petition for absolute divorce can be filed only for adultery on the part of the wife or concubinage on the part of the husband, both offenses as defined in the Penal Code.

A petition for relative divorce may be filed for adultery on the part of either spouse. For the purposes of this Code, adultery by the husband is committed when he has carnal knowledge with a woman other than his wife (Philippine House of Representatives [HOR], 1949a, p. 190).

Pacifico Lim of Sorsogon, one of the sponsors and proponents of the draft, said that there were some provisions that made the divorce stricter in the draft (HOR, 1949a, p. 536). He was referring to the following new provisions introduced in the draft:

Art. 113. In every case the court must take steps, before granting the divorce, toward the reconciliation of the spouses, and must be fully satisfied that such reconciliation

is highly improbable.

Art. 116. No decree of divorce shall be promulgated upon a stipulation of facts or by confession of judgment.

Art. 128. A decree of divorce granted in a foreign country to a Filipino citizen or to a foreigner domiciled in the Philippines is valid provided:

- (1) The ground therefor is one of those established by Philippine law, and took place abroad, and
- (2) The petitioner actually resided in said foreign country for over one year

The Code Commission criticized the operation of *Act No. 2710* for one thing — it granted only absolute divorce. Capistrano (1950/2005, p. 326) justified the restoration of relative divorce, “it is illogical to deny relative divorce, when absolute divorce is allowed.” They believed that this improvement was more suitable for the Filipino people. As explained by Capistrano, “It was intended that a Catholic, to whom absolute divorce is unthinkable and forbidden by their religion, should be given the right to ask for relative divorce just as he could, before the divorce law, Act 2710” (p. 326).

Deliberations on Divorce in the New Civil Code by the House of Representatives of the First Congress of the Republic

The original draft was submitted to the House of Representatives as House Bill 2118 which was read on February 7, 1949. Before the reading, the standing Committee on Codes of the First Congress had already conducted public hearings since April 1948 (HOR, 1949a, p. 535). On March 30, 1948, the *Catholic Women’s League of the Philippines* urged in a letter to rename “relative divorce” as “legal separation” because the word “divorce” is associated with the dissolution of marriage (absolute divorce) even though the law refers to relative divorce. The House would discuss this again during the deliberation (HOR, 1949a, p. 563).

After Quintin Paredes of Abra, head of the Code of Committee, read the proposed draft, Pacifico Lim of Sorsogon, as a committee member, facilitated the reading and deliberation of the first book of the draft on “Persons”⁹ which contains provisions on marriage and divorce (HOR, 1949a, p. 340). His presentation of the first book on

9 The *Civil Code* consists of four books: (1) Persons, (2) Property, Ownership, and its Modification, (3) Different Modes of Acquiring Ownership, and (4) Obligations and Contracts.

"Persons" was met with multiple interpellations and heated exchanges for a month: Manuel Zosa of Cebu preferred the original *Act No. 2710* over the amendments proposed by the Code Commission, believing it to be more strict—contrary to Lim's view that the draft revisions were stricter (p. 532-533). Juan Rodriguez of Pangasinan criticized what he described as an "unjust" procedure to convict someone's spouse to obtain absolute divorce (p. 539). Domingo Paguirigan of Isabela called for an additional provision to prohibit foreign divorces (p. 541). Rodriguez, again, later argued that legal separation is more "immoral and unchristian" as it could foster adultery rather than enabling a person to remarry and establish a happier home (p. 810-812). Timoteo Ricohermoso of Marinduque countered the latter citing that absolute divorce "will bring us disappointments; it will disintegrate family relations, destroy homes and conjugal happiness" (p. 813). Amado Yuzon of Pampanga supported the inclusion of both relative divorce and absolute divorce as a "compromise between the two school of thoughts" (p. 820). Lorenzo Sumulong of Rizal opposed Rodriguez insisting that "divorce in any form should not be permitted, but only legal separation should be permitted" (HOR, 1949a, p. 826).

Zosa's Proposal: "The Divorce Law, Act No. 2710, Shall Prevail"

On March 18, 1949, when Pacifico Lim was reading the approved amendment to reword "relative divorce" to "legal separation," Manuel Zosa proposed the removal of the Code Commission's divorce proposal (again, containing both absolute and relative divorce) suggesting that the original *Act No. 2710* (containing absolute divorce only) should stand as was, on the ground that the Code Commission had liberalized divorce policy and he opposed such liberalization (HOR, 1949a, pp. 833, 847).

Zosa's proposed amendment was initially accepted with twenty-one in favor and thirteen against; however, a motion for reconsideration was submitted (HOR, 1949a, pp. 847-848). The House resumed discussion on Zosa's proposed amendment through a roll call on March 21, which revealed the complex and diverse opinions of Filipino lawmakers in the First Congress. Some supported the inclusion of both absolute and relative divorce, while others favored only one type. Their arguments were largely framed around two recurring themes: Catholic morality and the welfare of the Filipino family.

Several lawmakers, such as Herminigildo Atienza of Manila (HOR, 1949a, p. 850-851), Vicente Logarta of Cebu (p. 852), Constancio Padilla of Nueva Ecija (p. 853), Quintin Paredes (p. 853), and Amado Yuzon (p. 859), rejected Zosa's amendment because they were in favor

of having both absolute and relative divorce as originally drafted by the Code Commission. Atienza, Paredes, and Logarta reasoned that it was pragmatic to have relative divorce for the Catholics along with the existing absolute divorce for others. The leftist lawmakers of the Democratic Alliance party, Padilla and Yuzon, declared openly that they were in favor of absolute divorce because of practical reasons. Padilla argued that it was unfair for the offended spouse to remain bound to their partner even in cases of adultery (p. 853). Other lawmakers rejected Zosa's amendment on the ground that Congress needed more time to thoroughly deliberate on the policy, although they also expressed opposition to the liberalization of divorce. These included Atilano Cinco of Leyte (p. 851), Esmeraldo Eco of Camarines Norte (p. 851), and Adriano Lomuntad of Samar (HOR, 1949a, p. 852).

Floro Crisologo of Ilocos Sur (HOR, 1949a, p. 851), Timoteo Ricohermoso (p. 854), Florante Roque of Bulacan (p. 855), Lorenzo Sumulong of Rizal (pp. 856-857), Domingo Veloso of Leyte (pp. 858-859), and Jose Laurel Jr. (p. 860) voted against Zosa's amendment because they categorically rejected absolute divorce, viewing it as inconsistent with the Catholic faith and as a source of broken families. In contrast, Marcial Rañola of Albay and Tito Tizon of Samar accepted Zosa's amendment for different reasons. Rañola favored maintaining the status quo, noting no major issues with the operation of *Act No. 2710* (p. 854), while Tizon argued that legal separation would lead to more separations than absolute divorce, since the former was procedurally easier to obtain (pp. 857-858). Enrique Medina (p. 852), Toribio Perez of Albay (p. 854), Alejo Santos of Bulacan (pp. 855-856), Lorenzo Teves of Negros Oriental (HOR, 1949a, p. 857) also voted in favor of Zosa's amendment arguing that between the two policies, *Act No 2710* was less liberal than the proposed divorce provisions in the *Civil Code*.

The *Vigilantes'* Proposal: "Abrogate Divorce and Revive Legal Separation"

The House failed to adopt Zosa's amendment during the roll call votation. On March 30, a group of four congressmen called the *Vigilantes*, namely Sumulong, Ricohermoso, Roque, and Laurel Jr., proposed a substitute amendment which aimed to "abrogate absolute divorce and revive legal separation" (HOR, 1949a, p. 1138).¹⁰ The proposed amendment was read by Sumulong to members of the House, "Art. 111. A petition for legal separation may be filed for adultery on the part of the wife and for concubinage on the part of the husband

10 It is not clear in the document how the *Vigilantes* group was formed. Interestingly, the *Vigilantes* did not belong to the same political party: Sumulong (Popular Front), Ricohermoso and Roque (Liberal), Laurel Jr. (Nacionalista) (HOR, 1949b, 14).

as defined in Penal Code..." (p. 1156). When asked to justify the amendment, Sumulong said that "the reason is very plain. This country is predominantly a Christian country" (p. 1159). Interestingly, he framed his argument through an appeal to history, "That is the reason, my friends, why we are submitting for your kind consideration this amendment which will restore that kind of divorce which we believe our people are more in harmony with because they have had a long historical experience with it" (HOR, 1949a, p. 1159).

On April 1, and from April 4 to April 5, several congressmen interpellated Sumulong, expressed either support or opposition to the *Vigilantes'* amendment through a speech, and debated with each other. Those who mainly disagreed with Sumulong were factions who supported the Code Commission's policy of providing both types of divorces and believed that absolute divorce was better than legal separation. Marcos Calo of Agusan opined that there should be more additional grounds for legal separation (HOR, 1949a, p. 1162). The Catholic-turned-Aglipayano Damaso Samonte of Ilocos Norte believed that legal separation would bring "more immorality" (pp. 1175-1176). For Padilla and Manuel Cases of La Union, legal separation would produce more illegitimate children, whereas absolute divorce would allow individuals to remarry and raise legitimate children (pp. 1170-1171, 1209). Atienza, meanwhile, advocated for inclusivity urging them to be more considerate with the minority of non-Catholics in the nation, "to the Moros, Protestants, the Aglipayans and the others who, after all, are not a very insignificant minority, let us give them divorce" (p. 1175). The tension between Catholics and non-Catholics became evident when the Aglipayan Samonte, being interpellated by Catholic Ricohermoso, said "I do not see why the gentleman's being a Catholic places him in a position to control his instincts better than people who do not belong to the Catholic church" and further resorted to ad hominem by saying "Catholics are immoral, at least psychologically" (p. 1186). Gaudencio Demaisip of Iloilo called him out for his "indecent" remarks (HOR, 1949a, p. 1186).

Concerning the lack of inclusivity, Atienza suggested amending the *Vigilantes'* amendment by incorporating absolute divorce, albeit in a compromised manner.

Art. 123. Divorce shall be granted under the following conditions:

1. When the husband is guilty of concubinage or the wife of adultery as these crimes are defined by the Penal Code; and
2. When at the time the marriage is solemnized, both

parties belonged to a church, sect, or religion that allows divorce, which fact they shall so state in the marriage contract;

Art. 124. All provisions of this Code relating to legal separation shall apply to divorce, except that when divorce is granted both parties shall be allowed to remarry.

However, his amendment was denied by the House with eight in favor and 35 against it. Cipriano Primicias of Pangasinan took the opportunity to propose an additional ground for legal separation, "(2) an attempt by one spouse against the life of the other" (HOR, 1949a, p. 1228). Initially it faced resistance, but later it was accepted by the House with 26 in favor and 19 against. Finally, the House approved and adopted the *Vigilantes'* amendment for legal separation only (HOR, 1949a, p. 1235).

The Appeal of Muslim Mindanao: "Recognition of Divorce among the Muslims"

Representatives from Muslim Mindanao closely collaborated with Atienza to work around the incorporation of the absolute divorce for Filipino Muslims. The proposal of the latter was rejected by the House (HOR, 1949a, p. 1228). On April 18, days after approving the adoption of legal separation, a similar proposal was submitted again led by Sultan Ombra Amilbansa of Sulu and Manalao Mindalano of Lanao "concerning the grant of recognition of divorce in the Moslem provinces." They were proposing to add a provision to Sumulong's version which states that:

Art. 123. There shall be no divorce in the Philippines, however, for a period of twenty years from the date of the approval of this Code, divorce among the Moslems shall be recognized and shall be covered by Moslem customs and practices (p. 1343).

In connection to this amendment, Amilbansa explained that "We do not, the Moslem members of this House, intend to participate in the debates of any measure which concerns the Christian practices, because deep in our hearts and in our religion we respect the Christian religion. If we ask such things as this, it is because we have historical facts to support it, that we, like the rest of the Christian people, should also be given the rights and privileges to practice our sacred traditions" (p. 1344). Later, Amilbansa withdrew his amendment after being assured that "this matter will be the subject of a separate measure" (HOR, 1949a, p. 1345). The recognition of Muslim divorces for twenty years was promulgated in *Rep. Act 394* on June 18, 1949.

High Divorce Trends and Election Politics: Factors Leading to the Removal of Absolute Divorce

The support for legal separation as a replacement for the Code Commission's version can be understood through the context of high divorce incidences and the politics of the upcoming 1949 general elections. When Marcos Calo interpellated Sumulong on expanding the grounds for legal separation, the latter disagreed by recounting an anecdote about his legal practice during the Japanese occupation period.

I am a lawyer, and we had this experience during the Japanese occupation. Many couples have come to me and *ex parte*, that is, when the spouse is alone giving his side, he says that he has been deserted for five years; he has been maltreated, but when you talk with the other spouse, you will find out that it is not true and that the complaining spouse is only in love with another (HOR, 1949a, p. 1162).

Sumulong's anecdote illustrates the accommodating nature of the second divorce statute, *Executive Order No. 141*, during the Japanese occupation—a feature that is unsurprising for a statute that provided as many as eleven grounds for absolute divorce. In 1943 alone, there were 285 divorces granted under the law (“Marriages Double”, 1943, p. 6). As reported in an *Evening News* article “House Group Favors Relaxing Curbs on Absolute Divorce” (1948), a total of 600 divorces were granted within the one-and-a-half-year enactment of *Exec. Order No. 141* until October 1944, compared to the 200 divorces under the 32-year enactment of the first divorce statute, *Act No. 2710*, from 1917 to 1948 (cited in Reyes, 1953, 48).

It is also important to examine the role of print media in the publicity of absolute divorce. The *Tribune* newspaper served as a “propaganda mouthpiece” of the Japanese authorities in the Philippines (Jose, 1990, 64). The *Tribune* consistently promoted absolute divorce to the Filipino public—at one point the newspaper wrote “there should be no fear of the new divorce law being misused if the church is doing its part in making us insensible,” blaming the Catholic church for marriage breakdowns (“Editorials”, 1943, p. 1). It indirectly advertised the accommodating nature of the statute by giving an update on the high number of filed cases which potentially contributed to the rising divorce incidences of this era: “3 Divorce Cases Filed in Court” (1943, p. 1) in Manila City one day after the publication of the policy, “2 Men and 2 Women Seeking Divorce from Their Spouses” (1943, p. 8) on the following day, “9 Divorce Cases in Bulacan” (1943) on April 26, and three divorce cases in Albay (“Divorce in Albay”, 1943, p. 7) and “9 Divorce Cases in Bulacan” (1943, p. 7) on April 27. The publicity surrounding divorce coupled with its numerous grounds resulted in

400 divorces per annum (*Exec. Order No. 141*) compared to 6.25 divorces per annum (*Act No. 2710*), a statistic that must have been alarming for the anti-divorce bloc.

Speaking of global trends, high divorce incidences abroad during this period are also noteworthy. Divorce incidences increased in Germany, France, Sweden, England and Wales, and the United States from 1940 to 1947 with peaks found between 1945 and 1947 (Phillips, 1988, pp. 553-554). In the United States alone, there were 3 million divorces from 1942 to 1948 (428,571 per annum) compared to 1.75 million divorces from 1935 to 1941 (250,000 per annum) (Phillips, 1988, p. 558). Of course, for the advocates of legal separation, this appeared as a threat to 6,224,335 husbands and wives, which comprised 58% of the marriageable Filipino population (Philippine Bureau of the Census and Statistics [BCS], 1954, p. 121).

The United States often served as a point of comparison in the debates. When Sumulong refused to expand the grounds for legal separation, he said, "Our traditions are not like the traditions in the United States where the wife leaves the house at the same time as the husband because she has a job and because she is economically independent and at any time she can afford to separate" (HOR, 1949a, p. 1161). In defending the *Vigilantes'* amendment, Tito Tizon invoked the American example, "Have we so much as lost our sense of democratic values that we are ready to hoist the banner of peace just to pacify a minority whose standards are Hollywood and Reno?" referring to lenient absolute divorce statutes in the U.S. states of California and Nevada (p. 1215). Even proponents of the *Civil Code* draft believed that there were limitations in accommodating absolute divorce. During the earlier parts of the deliberation, when Rodriguez asked Lim why the Code Commission created a "stricter" statute than *Act No. 2710*, Lim answered "...because they are afraid of what is happening in the United States: they marry now; they divorce tomorrow; remarry the next day; redi- divorce the following day; and then marry again two or three days later" (HOR, 1949a, p. 536-537).

The congressional debates drew considerable attention especially among Filipino women. Public hearings were conducted before the House deliberations of the *Civil Code* draft in February 1949. Throughout the deliberation, people sent telegrams, petitions, and manifestations to their representatives urging them to vote against the liberalization of divorce (HOR, 1949a, pp. 857, 1177, 1208, 1218). These appeals, according to Samonte, were sent by Catholic associations and women (p. 1177-1178). An interesting case was that of Domingo Paguirigan who initially voted in favor of Zosa's amendment to keep the original absolute divorce statute, *Act No. 2710*, but later supported the *Vigilantes'*

amendment to abrogate absolute divorce due to the demands of his people.

I have never been so flooded with so many messages from my constituents, requesting me not only to oppose any attempt to touch the present Divorce Law or Act No. 2710, but also, if possible, abolish divorce and replace it with legal separation. The messages I have received are so numerous and countless that they formed an avalanche (HOR, 1949a, 1218).

The deliberation of the *Civil Code* coincided with the upcoming 1949 general elections. Electoral politics was another crucial factor influencing the removal of absolute divorce.¹¹ By then, Filipino women had been participating in electoral politics for a decade, having gained the right to vote in 1937 (Abinales & Amoroso, 2017, p. 147). The electorate had grown significantly – from a population of 21-year-old men in the early 1900s to 21-year-old Filipinos of both sexes.¹²

Several women’s groups strongly advocated for the abolition of absolute divorce – a stance evident as early as the Philippine Legislature’s deliberations on *Act No. 2710* in 1916–1917 (Ranera, 2023, pp. 167-171). The *Catholic Women’s League*, the same organization that proposed the term legal separation, supported Congressman Agustin Kintanar’s proposal to abolish *Act No. 2710* in a convention in March 1947 (“Catholic Women’s League”, 1947, pp. 30, 34). The lone woman in the House, Remedios Ozamis-Fortich of Bukidnon, discussed her concern over absolute divorce, describing it as a “blight upon our youth” in an assembly of 200 women facilitated by the *League of Women Voters* in Manila Hotel (“Congresswoman Fortich”, 1947, p. 4). In a magazine article titled “Shall We Divorce?”, the American English Professor Winnifred O’Connor-Pablo (1941) pondered on the reasons “why Filipino women have always opposed divorce.” While Catholic teaching was the most apparent reason, she also emphasized the concern for family welfare as an equally important rationale. She wrote, “a patriotic Filipino girl should put the welfare of society and the State first. She [cannot] help but know that in a divorce the woman and the children are the real sufferers” (p. 14).

Thus, congressional candidates for the upcoming election were

11 This article acknowledges this context may have been first introduced by Manuel L. Quezon III in his web article “The Explainer: Divorce lost in the debate” (Quezon III, 2017).

12 A General Act for the Organization of Municipal Governments in the Philippines Islands, Act No. 82, §6 (Jan. 31, 1901); Philippine Organic Act of 1902, §7 (Aug. 29, 1916); Philippine Autonomy Act of 1916, §15 (Jul. 1, 1902); CONST (1935), art. v, §1.

attempting to be sensitive to the sentiments of Filipino women. Amid the ongoing debates in the House, Fortunato Suarez of Quezon Province candidly remarked, "Let us not be hypocrites. I do not know whether my colleagues are only afraid that the women may not vote for them in the coming elections" (HOR, 1949a, p. 856). In the news article "No More Divorce?" (1949), an anonymous representative of the House admitted that he personally favored absolute divorce but refused to be quoted fearing it would jeopardize his reelection bid. The same report noted that a Catholic bishop had warned congressmen regarding divorce, otherwise "reelectionists would encounter their Nemesis in November" (Locsin, 1949).

2

"ABSOLUTELY AGAINST LIBERALIZATION PRESENT DIVORCE LAW."
"VIGOROUSLY OPPOSE LIBERALIZATION OF DIVORCE LAW."
"OPPOSE DIVORCE LAW."
"WE URGE ABOLITION OF DIVORCE DISHONORS GOD DESTROYS FAMILY NATION."

Because of a flood of such telegrams, and letters and petitions from Catholics all over the Philippines, Nationalists and Liberal members of the House of Representatives decided in caucus last week, not only to vote against the proposed "liberalization" of the present Divorce Act, but to abolish absolute divorce.

Henceforth, only legal separation would be authorized, on the part of the adulterer on the part of the wife, cohabitation on the part of the husband. The marriage would be impossible. That is, if the bill sponsored by Congressman Lorenzo Sumulong of Rizal is passed, it is expected to be passed by the House, and if the Senate should act favorably on the measure and the President does not veto it.

The congressman was quoted thus, by the *Evening News Saturday Magazine*:

"I have daughters. For their sake, I'd like to liberalize the Divorce Law. I don't intend to divorce my wife, but I would give my daughters a chance to mend their lives if they should happen to marry responsible husbands. I believe Catholics should exercise strict discipline among their flock instead of imposing their religious prejudice on other people, who are non-Catholics. It's on the same principle of human rights that we would object if Mohammedans whose religion forbids the eating of pork should try to influence legislation on Catholics, like Mohammedans, would be prevented from eating pork. There are such things as minority rights. Granted that Catholics are predominant in this country, it should not mean that their religious prejudices should be visited on non-Catholics, or that non-Catholics should be bound by the limitations inherently religious, rather than civil, of Catholics. If Catholics don't want divorce, let them entrain themselves within the church, but not within the law. But don't quote me," laughed the congressman, "I want to get reelected."

The congressman had good cause to fear electoral defeat if he should be identified with those who favor liberalization of the Divorce Law. "Catholic bishops" reports the *Manila Times*, "from all over the country broadly hinted in their urgent wires that unless their pleas were heeded, reelectionists would encounter their Nemesis in November." The prelates also stated that they had no objection to passage of the proposed code provided its divorce provisions were eliminated, inferentially consenting to the continuance of the present law on absolute divorce.

But the congressmen, Nationalists as well as Liberals, decided to notify the bishops, to be more Popish than the Pope, to impose the Catholic religion, at least in the matter of di-

PHILIPPINES FREE PRESS Manila, April 9, 1949.



WOMEN IN AUDIENCE DURING CONGRESSIONAL DEBATE ON DIVORCE.

No divorce for them!

No More DIVORCE?

by TEODORO M. LOCSIN
Staff Member

ing, is still alive, would be a heinous, mortal sin.

So that non-Catholics as well as Catholics may not commit that "mortal" sin, members of Congress have decided to make the commission of the "sin" impossible by making remarriage legally impossible, a crime punishable by imprisonment.

Under the present law, a man may secure a divorce from his wife only after sending her to prison for adultery. He must send her to prison; he must not let her go, grant no mercy, if he is to be free of her, and free to marry again. In the case of the woman, she must send her husband to prison for cohabitation if he would be free to re-marry.

Under the proposed law, abolishing absolute divorce, a man must not only be without pity and send his adulterous wife to prison if he would be rid of her and be able to re-marry. He must harden his heart, plot and plan, lay a trap for his wife, catch her in the act of adultery and shoot her to death. He must kill.

If the husband of an adulterous woman hesitates to kill, then he must condemn himself to a life of perfect misery for the next 20, 30, 40 years. He must suppress all natural desires, he must be perfectly chaste. He is expected to be, under the proposed law, an absolute ascetic.

The alternative would be to get himself a *quintilla*, which it is certain neither the Catholic Church nor our congressmen would countenance, or to take his faithless wife to himself again, to be, in short, as the Spaniards put it, a *pendejo comendado*.

It was St. Paul who said, "Better to marry than to burn." Under the proposed law abolishing absolute divorce, a man who is to the husband of an unfaithful woman must kill, or

circumstances "scandalous," the family may continue to exist, but it may only. Its foundations are gone, it is an empty temple, a mockery and a sham.

Nothing remains of the *tinian* that had once bound a man and a woman together. There is only a tiling scene.

The plain and true reason of course for the bill abolishing absolute divorce is not great concern on the part of congressmen to save the Filipino family from rack and ruin. The purpose of the bill is political—election. The congressmen think that by giving the Catholic bishops, priest and laymen what they want, the liberalization of the Divorce Law, in more than they have asked for, the abolition of absolute divorce, the (the congressmen) have assured their reelection. That's the only reason why they would abolish absolute divorce, and they will admit it, if they be honest. If they be honest!

As if it is, those members of Congress have placed the Catholic Church in a dubious position. Catholics are always ready to cry out and complain when their rights as Catholics are trampled upon, when others would impose upon them a non-Catholic way of life. Now congressmen are making it appear that Catholics, who they are in the majority, have no participation in imposing their way of life on non-Catholics. That Catholics are for freedom and tolerance—only who it suits them.

As a matter of fact, the Catholic Church need not fear that the present law permitting absolute divorce or even a liberalization of it, will send true Catholics on a down spree. Re-marriage, while the divorce is still alive, is, the chief teacher, a mortal sin, and, on the score alone, the sinner faces the threat of eternal punishment. That should be enough to keep any husband in the straight and narrow path.

If despite threat of hell, a Catholic must or continue a divorce re-marrying, why, he is no Catholic and if he is not afraid of hell, it would be enough to keep any husband from legal prohibition against re-marrying will prevent him from breaking up the family. As a man's wife is no longer woman, it is not for whatever reason, broken up. But, it is enough to point out, when a wife becomes adulterous, or spends her marriage vows a fake, or when a man takes a mistress, and openly lives with her and keeps her under

Teodoro M. Locsin's "No More Divorce?" article in the April 9, 1949, issue of the *Philippine Free Press* which also contains a picture of Filipino women attending a congressional debate on divorce probably in 1949. This was obtained from the Microform and Digital Resources Center, Rizal Library, Ateneo de Manila University.

Conclusion and Aftermath: A Nation Without Divorce

Bocobo (1950/2005) appealed to the Committee on Codes to restore the original provisions of having both absolute divorce and legal separation, but he was denied in the end (p. 508). Days later after the deliberation, the House of Representatives approved the *Civil Code* draft on its third and final reading on April 27, 1949, including the amendment that replaced absolute divorce with legal separation (HOR, 1949a, p. 1527). The Senate, on the other hand, accepted the revisions of the House for legal separation (p. 2420). Pres. Elpidio Quirino signed *Rep. Act 386* on June 18, 1949, which became the *Civil Code of the Philippines*, effective starting July 1, 1950 (Capistrano, 1950/2005, p. 309).

This marked the beginning of a new chapter in the nation's legal history – a new code, but one without absolute divorce. This article has shown that the removal of absolute divorce and the introduction of legal separation, on the other hand, can be situated within the broader process of reforming and decolonizing the civil law that culminated in the creation of the *Civil Code* by the Bocobo's Code Commission in 1947 and its deliberation by the House of Representatives in 1949. In the draft, the Code Commission restored relative divorce (along with absolute divorce), believing it would better reflect the strong solidarity of the Filipino family and appease the Catholic majority. Sentiments on absolute divorce were complex and diverse: some preferred having both types of divorce available, while others preferred absolute divorce over legal separation. Some believed that there should only be legal separation, while still others appeared open to absolute divorce but with reservations. Yet, across these differing positions, all factions framed their arguments around Catholic morality and the pursuit of domestic happiness of Filipinos.

In this narrative, drawn primarily from congressional records, I have identified a group of four congressmen known as the *Vigilantes*, led by Lorenzo Sumulong, who played a decisive role in the removal of absolute divorce. But I have also argued that the surge in divorce cases during the Japanese occupation; the broader global rise in divorce rates in the mid-twentieth century, as exemplified by the United States; and notably, the politics surrounding the 1949 general elections shaped by the prevailing sentiment of Catholic majority and especially female electorate were crucial factors that led to support for legal separation in place of absolute divorce.

As a response to the appeal of Muslim Mindanao lawmakers, *Rep. Act 394* legally recognized Muslim absolute divorce [*talaq* طلاق] in accordance with Islamic legal tradition for twenty years from 1949 to 1969. This represented the beginning of postcolonial legal plurality in divorce, designed to accommodate both the Catholic majority and the

Muslim minority. During the martial law regime of President Ferdinand Marcos Sr., he extended the legality of *talaq* through *Pres. Dec. 793* (1975)). This was created “in the interest of national unification” amid the brewing separatist movements such as the Muslim Independence Movement in 1968 and the Moro National Liberation Front in 1972 (Majul, 1988, pp. 903-902). Eager to mitigate the armed struggle in Muslim Mindanao under his *New Society*, President Marcos Sr. promulgated the *Pres. Dec. 1083, Code of Muslim Personal Laws* which permanently institutionalized Islamic personal and family laws including *talaq* (Majul, 1977, p. 383).

There have been several attempts to reinstate absolute divorce since the 1970s until today. It was once contemplated in the 1971 Constitutional Convention (Garcia, 1972, p. 55-56). There were bills on absolute divorce that expired in the Batasang Pambansa under the Marcos Sr. regime and the 8th Congress under President Corazon Aquino (Testera, 1989, p. 283). Newer policies on family relations were introduced in the *Exec. Order No. 209, Family Code of the Philippines* (1987), but as far as divorce was concerned the remedy remained to be legal separation with additional grounds (Family Code, art. 55-67). Similar bills found no success from the 11th Congress under President Joseph Estrada until the 18th Congress under President Duterte.¹³

There are longstanding continuities, such as the resistance of the Catholic church to absolute divorce, which finds it convenient to campaign among 78.8% Catholics in the country (Philippine Statistics Authority, 2023). But times are changing. Public support for absolute divorce has been steadily increasing from %20-15 in the 1980s, to %36 in %43, 2003 in %50, 2005 in 2011, and %60 in 2014, and %53 in 2017 (Miralao, 1997, p. 201; “SWS survey: 2013”, %36; Social Weather Stations, 2015). Contemporary women’s groups such as the *Gabriela Women’s Party* have been vocal in their support for absolute divorce. According to former Rep. Arlene Brosas, “remedies currently available...are limited, expensive, and are unfavorable to women.” She added, “There are relationships that are really irreconcilable and those are where we need State remedies, which is divorce” (Andrade 2022). So far, the greatest success for proponents of absolute divorce was the approval of the congressional bill by the House on its third and final reading in the 19th Congress (Cervantes, 2024). However, the Senate failed to review and produce a counterpart measure that could be consolidated and submitted to the President. As of this writing, some newly elected members of the 20th Congress are once again attempting to propose a bill to restore absolute divorce (Quismorio, 2025).

13 Proposed bills on absolute divorce can be found in LEGIS (Legislative Information System).

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Bionote

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