

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 MAR -7 P2:17

SENATE

RECEIVED BY:

S. No. 1969

Introduced by **SENATOR CYNTHIA A. VILLAR**

**AN ACT
AMENDING ARTICLE 55 OF EXECUTIVE ORDER NO. 209, SERIES OF 1987,
OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AS AMENDED**

EXPLANATORY NOTE

The 1987 Philippine Constitution, under Article XV, Section 2, considers marriage as an inviolable social institution that should be protected by the State¹. However, reality dictates that there are occurrences in the marriage that justify the separation of spouses in such sacred union. This is the reason why Article 55 of the Family Code of the Philippines (FC), promulgated in 1987, provides that a petition for legal separation between married couples may be filed for any of the grounds listed in the said article.

One of the grounds for legal separation mentioned in the said Article is "Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner". However, as correctly observed in one of the policy briefs issued by the Philippine Commission on Women (PCW), "this ground still requires that the petitioner must establish the frequency of infliction of bodily harm or demonstrate the severity of the abusive conduct" and that "an aggrieved spouse can seek such recourse only when they have experienced several instances of physical violence or when the abuse they received is severe". This ground seems to exact a lot from victims of domestic violence, who oftentimes are women and who are already in

¹ Philippine Constitution (1987), Article XV, Section 2.

misery, maimed, and rendered helpless due to the violence or abusive conduct of their respective spouses.

It was also observed in the PCW policy brief that Article 55 of the Family Code has not included sexual abuse as one of the grounds for legal separation, when it has already been settled by jurisprudence that “. . . marriage is not a license to forcibly rape their wives. A husband does not own his wife’s body by reason of marriage. By marrying, she does not divest herself of the human right to an exclusive autonomy over her own body and thus, she can lawfully opt to give or withhold her consent to marital coitus.”²

Moreover, as the Family Code was promulgated earlier in 1987, it has not included as grounds for legal separations the acts of violence against women and their Children provided in a 2004 legislation - the Republic Act (RA) No. 9262 or the “Anti-Violence Against Women and Their Children Act of 2004”. The said law was enacted in order to protect women and their children, within a family setting (by virtue of marriage or a common law relationship), from violence and threats to their personal safety and security, typically perpetrated by a family member. One of the reliefs afforded to VAWC victims under RA No. 9262 is the issuance of a protection order to prevent further infliction of harm by the perpetrator, which include, among others, directing the perpetrator to stay away from the VAWC victim and the residence, place of employment, or any specified place frequented by the victim. This is an assertion of the need to separate the victim from the perpetrator to avoid further violence.

The statistics on violence against women and children (VAWC) under Republic Act (RA) No. 9262 in the Philippines are disheartening. Based on the 2017 National Demographic and Health Survey (NDHS), one (1) out of four (4) ever-married women aged 15 - 49 has experienced physical, sexual, or emotional violence by their husband or partner.³ The 2020 Responsible Parenthood and Reproductive Health Law Annual Report cited that the Philippine National Police recorded ten thousand four hundred twenty nine (10,429) cases of violence against women and children (VAWC, under

² *People v. Jumawan*, G.R. No. 187495, April 21, 2014.

³ Philippine Statistics Authority, 2018. *One In Four Women Have Ever Experienced Spousal Violence (Preliminary results from the 2017 National Demographic and Health Survey)*. <https://psa.gov.ph/content/one-four-women-have-ever-experienced-spousal-violence-preliminary-results-2017-national>

Republic Act No. 9262) in 2020.⁴ Women's rights advocates believe that VAWC cases surged as well when we had a surge in the COVID pandemic, when the VAWC victims had to stay home with the perpetrators and were hindered from reporting the abuse due to the prolonged lockdowns, community quarantine measures and suspension of public transportations.⁵ Legal separation should be a viable and clear recourse for victims of VAWC.

The attached bill proposes to include the acts of violence against women and their children stated in RA No. 9262 as additional grounds for legal separation of married couples. The proposed amendment seeks to include "any physical, sexual, psychological violence, abusive conduct, or economic abuse, including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty directed against the petitioner, a common child, or a child of the petitioner" under the enumeration of grounds stated in Article 55, FC.

It is submitted that the attached bill conforms to the provisions of the UN Convention on the Elimination of All Discrimination Against Women (CEDAW), RA No. 9262, and RA No. 9710 or the Magna Carta of Women.

In view of the foregoing, I recommend the approval of this measure.


CYNTHIA A. VILLAR

⁴ Department of Health (DOH) and Commission on Population and Development (POPCOM), 2021. 2020 Annual Report, Philippine Responsible Parenthood and Reproductive Health Act of 2012. p. 92.

⁵ Ibid. p. 91.

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 Section 1. *Grounds for Legal Separation.* – Article 55 of E.O. No. 209, otherwise
2 known as "Family Code of the Philippines" is hereby amended to read as follows:

3 "Article 55. A petition for legal separation may be filed on any of the following
4 grounds;

5 (1) [Repeated] **ANY** physical, **SEXUAL, OR PSYCHOLOGICAL**
6 violence, [~~or grossly~~] abusive conduct, **OR ECONOMIC ABUSE,**
7 **INCLUDING THREATS OF SUCH ACTS, BATTERY,**
8 **COERCION, HARASSMENT OR ARBITRARY**
9 **DEPRIVATION** directed against the petitioner, a common child,
10 or a child of the petitioner; x x x"

11 Sec. 2. *Repealing Clause.* – All laws, decrees, orders, and issuances, or portions
12 thereof, which are inconsistent with the provisions of this Act, are hereby repealed,
13 amended, or modified accordingly.

14 Sec. 3. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
15 in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,