

Notes and Comments

"The Status of Illegitimate Children Under The Francisco Bill"

A local paper has characterized the Francisco Bill as "seeking to give illegitimate children not having the status of natural children the same rights with respect to acknowledgement, support, legitimation and succession as natural children. The bill was filed 'in obedience to our instinct of justice and feelings of humanity,' according to the author." (The Manila Times, July 28, 1946).

It would seem that this topic has aroused quite a great deal of interest, as shown in the Evening News of August 23, 1946, p. 7, wherein was mentioned, among other things, the following incident: "The conversation veered to the new bill which impends — that equalizing inheritance rights for both legitimate and illegitimate children. Mrs. Roxas thought that while the bill was charitable it could also be unfair, if not misconstrued as condoning immorality. The ambassador's lady (Mrs. Paul V. McNutt) observed that in America they have stopped branding children illegitimate, only the parents are. "Mrs. Roxas, in the course of an exciting discussion, went on to enjoin the lady delegates to make a study of laws affecting women and children abroad, for purposes of comparison and possible adoption here."

Before we could intelligently and adequately discuss the extent and scope of the proposed legislation, it would seem proper and just to study and understand first, the present frame and spirit of our existing laws, with reference to the changes that would result therefrom. Our Civil Code provides:

"Art. 139 — Illegitimate children who do not have the legal status of natural children shall only be entitled to support from their parents as prescribed in Art. 143."

Now, if the proposed measure takes effect, then the status of illegitimate children would be the same and equal to that of the natural children, which, according to the following Articles of the Civil Code are:

"Art. 119 — Only natural children may be legitimated. Natural children are those born out of wedlock of parents who at the time of conception of such children, could have married with or without dispensation."

"Art. 134 — The acknowledged natural child is entitled.

1. To bear the name of person who acknowledges it.
2. To receive support from the same in accordance with Art. 143.

3. To receive in the proper case the hereditary portion provided for in, this Code."

It is clearly apparent from Art. 139 of the Civil Code, that illegitimate children are absolutely denied, in all cases, of any other right than that of support. The reason for such severity is due, presumably, to the fear that the rights of legitimate children would be invaded, and they would naturally suffer and be greatly affected thereby. It would seem that all protections and safeguards are extended to them, because their rights are, considered paramount and supreme than that of illegitimate children in all intents and purposes. To pretend otherwise would be to weaken the solidarity of the home influence and to rend family ties, leading ultimately to their disintegration and decay. The rigor observed by our Civil Code has for its end, therefore, the discouragement of illegitimacy, so as to bar out the confusion and social disorder which may follow therefrom. In short, our personal liberty is generally curtailed to restrain immorality and prevent possible chaos overtaking our social structure. "In a word," says Manresa, "society in spite of humanitarian efforts of some Popes, banish the illegitimate children from consideration and ordinary dealings among men." (1 Manresa, p. 610).

On the other hand, against such rigorous provisions of law against illegitimate children in those countries where our Civil Code is duly enforced, we have that other ex-

treme, as obtaining in Germany and in some of the States of the American Union, where the status of the illegitimate children is made equal to, and at par with, the rights and conditions of the legitimate children. The reason being, according to Manresa, that "the high principles the children, and the way should of justice are always favorable to not be closed to the improvement of their rights, which after all, they are far from producing social disturbances, which simple souls, ignorant of the reality of life presupposes." (1 Manresa, pp. 576 and 612). As a matter of fact, in the realistic and practical mind of Shakespeare, there could be no distinction, whatsoever, between legitimate and illegitimate children, for as he says in his *King Lear* (Act 1, Scene II).

" Wherefore should I
Stand in the plague of custom,
and permit
The curiosity of nations to de-
prived me,
For that I am some twelve or
fourteen moonshines.
Lag of a brother? Why bastard?
Wherefore base?
When my dimensions are as well
compact,
My mind as generous, and my
shape as true,
As honest Madam's issue?"

No doubt, the Francisco Bill seems to occupy the middle ground between the two extremes, by making the lot of the illegitimate children only equal to that of the natural

children. But in our humble opinion, the principal issue in the present instance, is not which of the two systems above described is better, but rather, whether the proposed measure is in harmony with our racial instinct and idiosyncracies as a people. It must be considered that our customs, our manners and traditions, are involved in this question. The vital issue therefore is, that to liberalize our present laws on illegitimacy would be to open the door to illicit relations and encourage infidelity between the spouses. And once the floodgate of promiscuous relationship is left ajar, we have no assurance that abuses would not creep in and corruptions would not occur, till they subvert our moral fiber, undermine our social fabric and uproot the very foundation of our Filipino home. Evidently the present strictness of our laws in this respect arises from the fact that we wish to preserve, as much as possible, the innate position of our family bond and unique home life. For, it is to be borne in mind, that "the very essence of government is restraint." In fine, in the words of Shakespeare in his play, "Measure for Measure,"

"We have strict statutes, and most biting laws,
(The needful bits and curbs to headstrong steeds.)"

From our racial heritage, we can best glean the purity and simplicity of the home life of our ancestors. In his "Cinco Reglas de Nuestra Moral Antigua," Teodoro M. Kalaw

tells us, "The home is everything with us. It is the center of our affections — our love nest, and it is at the same time the fortress of our liberty and the citadel of our honor." Our leading historian, Epifanio de los Santos, assures us in vivid style and beautiful Spanish language, ". . . los afectos domesticos, los de padres a hijos y el culto a la mujer tienen uno no se que de santidad señorial y familiarmente recatada, que convida al amoroso recuerdo del casto, hermanable y puro hogar filipino. La mujer, dulce compañera del hombre, cruza entonces nuestra imaginacion como una aparicion celeste, y ya no solo prepara la leche de nuestra frugal cena, y recoge 'con blanca mano' los 'dulces y frescos dones del verano', sino hasta los pensamientos.

" tan vanos:
Ella los va borrando con dedo
Y escribe en su lugar otros mas sanos."

It would, indeed, be vain and presumptuous on our part if we exclusively rely on the accounts of our own countrymen as to the virtuous and original devotion to the home life of our forefathers. Let us, therefore, take heed of what William Cliffor Palgrave, who was a British consul in the Philippines from 1876 to 1878, said when he described, in his "Country Life in the Philippines Fifty Years Ago," what he saw then and there. He observed: "Nowhere are family bonds closer drawn, family affections more enduring than among the Malay race, and now-

where, in consequence, is whatever weaknes and distorts them more injurious." And he depicted the spirit that prevailed in the sanctuary of their home life by adding: "Orderly children, respected parents, women subject but not suppressed, man ruling but not despotic, reverence with kindness, obedience in affections, these form a lovable picture nor by any means a rare one in the villages of the Eastern Isles."

Such was the glowing picture of the home life of our forbears, brought down to us from not a distant past. What measures of guaranty, do we have, that their pristine glory would not be dimmed with the advent of the new proposed innovation before our legislature? In truth and in fact, however if one really desires to protect the innocent offspring of his indiscretion and assist the unfortunate victim of his moments of temptation, then under Article 808 of the Civil Code, he is duly empowered to dispose by will, if he chooses to do so, one third of the hereditary property, which the law reserves for his free disposal. Moreover, let us bear in mind, that not all changes of whatever nature, are always for the better and conducive to improvement. Pernicious influence and fatal consequences, we would undoubtedly reap, if we persist in marring what is already good. Things that are well tried and proven, should be left alone undisturbed and unchanged. We believe that we should take pride in our present unmixed blessings, as obtained from the cons-

titution of our family life, for as the alluded author, William Gifford Palgrave, in his reminiscence on our country and people, had vividly depicted and prophesied: "It recalls to me a land and a people who both come nearer to what, in my idea, this world of ours and its inhabitants ought to be than perhaps any others that I am acquainted with. To climate, position, geological formation and the like circumstances the land owes its excellence; the inhabitants theirs more than anything else, I think, to a healthy Conservatism, and a happy immunity from the virus inoculation of improvement and progress. Good in themselves and their surroundings, they have wisely kept aloof from that worst enemy of Good and Well-being, the Better.

"Perhaps they too will, at no distant date, be drawn into the general vortex, and learn, with and from European or North-American teachers, the desire to be better, or in the accepted phrase, to 'better themselves,' with the inevitable result that they will be worse and worse off."

We believe that it is but fair and just, that our women — the bearers of the world's burden, who are vitally affected by this transcendent issue, should be duly heard on this fundamental question, concerning their own peace, happiness and contentment.

We are fortunate to have Mrs. Nieves Baens del Rosario, a prominent lawyer and social worker, who expressed her views, "that such

a proposal is irreligious, that it will encourage irresponsible fortune hunting, it will add to social problems, and promote wrong doing on the part of either a man or woman, because of the legal sanction given to the consequence of a misdeed." (The Manila Times, April 4, 1948, p. 1).

Again, Mrs. Cleotilde P. Bustamante of Tinajeros, Malabon, Rizal, representing the bulk and backbone of our women folk population, manifested: "I am grateful to Dr. Jorge Bocobo for having published in the Manila Times some of the essential questions raised in the new Civil Code. Being humble and unknown, I fear that my opinion might not have a chance to be heard during the hearing, June 14 — 19, so I chose to write the little that I could contribute to the public discussion on the question I am most interested in . . . The granting of equal property rights to illegitimate and legitimate children of immoral parents, gives an impetus to flagrant immorality, consequently, the increase in cases of immorality is in direct proportion to the increase of illegitimate children. Let us suppose that our daughter has a husband who has a mistress by whom he has illegitimate children. Would we be satisfied to know that the property of our son-in-law would be shared alike by his illegitimate children? To what extent would we be contented if our son-in-law has a child by our daughter and he happens to have several illegitimate children with whom he has to divide

his properties? Illegitimate children are actually well supported, especially if the immoral parents can afford to do so — notwithstanding the proposed Civil Code." (The Manila Times, June 5, 1948, p. 4).

In this connection, we are reminded by H. L. Mencken, who said, "Women decide the larger questions of life correctly and quickly, not because they are lucky guessers nor because they are divinely inspired, but simply and solely because they have sense. They see at a glance what most men could not see with searchlights and telescopes; they are the supreme realists of the race." (The Reader's Digest, May 1948, p. 75).

Finally, let it be considered, that the good name of the family is at stake in the outcome of the proposed measure and change. Hence, let the wisdom and past experience of our people be allowed to shed its effulgent light and guide us in the correct and just solution of this fundamental question of transcendental interest, ever deeply mindful of the truth expressed in our old Tagalog folk song:

"Ginto't pilak sa pukpukan
Ng platero'y umiinam;
"Ang puring lalong makinang
Sa pukpuk ay pumupusiaw."

(Gold and silver when hammered down by the silversmith becomes beautiful;
While honor though spotless is besmirched, when constantly assailed.)

JOSE BATUNGBAKAL