But our courts are already strait-jacketed by precedents and/or the narrowness of the phraseology of the law, when it comes to admitting evidence concerning sterility and blood-grouping tests. It is left for the Legislature to cut those bonds, which have been so tightly wound by the uncertainty of the past. The law must be amended—blood-grouping test statutes must be enacted. We do not claim to be a legal oracle, but we firmly believe that such legislation will inevitably be passed in the future. It is only hoped that it will be done soon.

VICTOR H. RODRIGUEZ

ARE UNACKNOWLEDGED NATURAL CHILDREN ENTITLED TO ANY SUCCESSIONAL RIGHTS?

When a person dies he leaves his earthly possessions either by virtue of a will or by operation of law to those who stand in a special relation to him.[1] Thus a person is given the privilege to regulate to a certain degree the disposition of his property even after his death by means of a will without however prejudicing the rights of certain individuals who, with or without such will, are entitled as a matter of right to share in his estate after his demise.[2] And in case the deceased dies intestate, the law steps in to regulate the proper disposition of his property.[3]

But in spite of the existence of a seemingly ordered system which regulates the disposition of the properties of a deceased person after his death, controversies still arise because of the varied relationship of the persons who are called upon to succeed the decedent. Among the many problems connected with hereditary succession which consume much of the time of the Bench and the Bar is, whether a natural child not recognized by either or both of his parents is entitled to

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[1] Article 774 new Civil Code (Republic Act No. 386). "Succession is a mode of acquisition by virtue of which the property, rights and obligations to the extent of the value of the inheritance, of a person are transmitted through his death to another or others either by his will or by operation of law."

[2] Article 783, id. "A will is an act whereby a person is permitted, with the formalities prescribed by law, to control to a certain degree the disposition of his estate, to take effect after his death."

[3] Article 960, id. "Legal or intestate succession takes place:

(1) If a person dies without a will, or with a void will, or one which has subsequently lost its validity;

(2) When the will does not institute an heir to, or dispose of all the property belonging to the testator. In such case, legal succession shall take place only with respect to the property of which the testator has not disposed;

(3) If the suspensive condition attached to the institution of heir does not happen or is not fulfilled, or if the heir dies before the testator, or repudiates the inheritance, there being no substitution, and no right of accretion takes place.

(4) When the heir instituted is incapable of succeeding, except in case, provided in this Code."

share in the inheritance of his deceased presumptive father or mother.

Under the Civil Code of 1889 there were two kinds of illegitimate children, namely, the natural and the spurious.[4] Natural children are those born out of wedlock of parents who, at the time of the conception of such children, could have married with or without dispensation;[5] while spurious children are those who can not be properly considered as natural.[6] Among illigitimate children, only the acknowledged natural were entitled to succeed as compulsory heirs, and the others were given support only.[7] Thus in a line of decisions [8] culminating in the recent cases of *Canales vs. Arrogante, et. al.*[9] and *Vidaurrazaga vs. Court of Appeals and Francisco Ruiz,*[10] the Supreme Court consistently held that "a natural child not recognized has no rights whatsoever." In the *Canales* case the court cited Manresa who says:

> "La naturalidad del hijo es siempre un hecho, independientemente de que los padres lo reconozcan o no; pero el reconocimiento se hace necesario para que aquel pueda exigir de estos la satisfaccion de los derechos que como a tal hijo le coresponden." (1 Manresa 574).

All these cases, however, including the *Canales* and the *Vidaurrazaga* cases were decided under the provisions of the Civil Code of 1889 and other prior laws, inasmuch as the persons whose successions were there under consideration died before the effectivity of the present Civil Code.[11] Article 2263 of the latter code provides that "rights to inheritance of a person who died, with or without a will, before the effectivity of this Code, shall be governed by the Civil Code of 1889."

The doctrine laid down in all these cases seems to require reexamination in the light of the provisions of the new Civil Code. For, considering the humane policy which pervades our present Civil Code of protecting illegitimate children,[12] would the courts follow the same

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[4] Report of the Code Commission, p. 112.

[5] Article 119, Civil Code of 1889; See also article 269, new Civil Code of the Philippines (Rep. Act. No. 386).

[6] Padilla, Civil Code Annotated, Vol. I, p. 347.

[7] Report of the Code Commission, *op. cit.*

[8] *Mijares vs. Neri,* 3 Phil. 195; *Mendoza vs. Ibañez,* 4 Phil. 666; *Infante vs. Figueras,* 4 Phil. 738; *Buenaventura vs. Urbano,* 5 Phil. 1; *Cosio vs. Pili,* 10 Phil. 72, "The certainty and reality of the natural filiation as the fundamental basis for the rights of a child born out of wedlock requires the recognition of his parents." *Tiamson vs. Tiamson,* 32 Phil. 62; *Concepcion vs. Untaran,* 38 Phil. 736; *Malonda vs. Infante Vda. de Malonda,* 45 O. G. No. 12, p. 5468.

[9] G. R. No. L-3821, prom. March 17, 1952.

[10] 48 O. G. No. 7, p. 2643.

[11] The present Civil Code of the Philippines is Republic Act No. 386.

[12] "Transgression of social conventions committed by the parents should not be visited upon the illegitimate children, be they natural or otherwise, because they do need the special protection of the State. They are born with a social handicap and

ruling in the event that a similar case should arise under the present law?

Even in the face of the settled jurisprudence under the old Civil Code, there were many authors and jurists who regarded the doctrine that only acknowledged natural children were entitled to succeed as compulsory heirs as unfair to the other illegitimate children who were brought into the world without their knowledge and consent, although there were those who sustained it upon the ground that it protected the rights of the legitimate family and served to discourage illicit relations.[13] In the case of *Malonda vs. Infante Vda. de Malonda,*[14] the late Justice Perfecto, in his dissenting opinion, pointed rather strongly that "agreement on the need of surrounding the institution of marriage with legal guarantees cannot enshrine it as a cult where the votaries may blindly sacrifice innocent children in the altar of Mammon." The same sentiment seems to have been shared by the members of the Code Commission who formulated the new Civil Code when they stated in their report [15] that "transgression of social conventions committed by the parents should not be visited upon the illegitimate children."

However, although under the new Civil Code, illegitimate children who heretofore were practically ignored by law, are now entitled to certain rights,[16] there seems to be a void in the law with respect

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the law should help them surmount the disadvantages facing them through the misdeeds of their parents. (Report of the Code Commission, p. 89).

"The liberalization of the rules governing the evidence of paternity or maternity of natural children arises from the profound conviction that a serious injustice is done to the natural child who is brought into the world through the wrongful relationship between the parents and not through any fault of the child. The present law has frequently prevented the righting of wrongs done to natural children. It has also permitted parents to disown or ignore their own flesh and blood leaving these innocent children helpless and at the mercy of adverse fate. In order to do away with so grievous an injustice committed against natural children, the new rules are proposed. (id. p. 88).

[13] *Malonda vs. Infante Vda. de Malonda,* supra.

[14] *Ibid.*

[15] See note 12.

[16] Article 287 new Civil Code. "Illegitimate children other than natural in accordance with article 269 and other than natural children by legal fiction are entitled to support and such successional rights as are granted in this Code."

Article 282, id. "A recognized natural child has the right:

(1) To bear the surname of the parent recognizing him;

(2) To receive support from such parent, in conformity with article 291;

(3) To receive, in a proper case, the hereditary portion which is determined in this Code."

Article 89, id. Natural children by legal fiction "shall have the same status, rights and obligations as acknowledged natural children."

Article 291, id. "The following are obliged to support each other to the whole extent set forth in the preceding article:

(1) The sopuses;

(2) Legitimate ascendants and descendants;

to the rights of unacknowledged natural children. An analysis of pertinent provisions of the present Civil Code tends to lend support to this statement.

Article 887 enumerates who are compulsory heirs, among whom are "other illegitimate children referred to in article 287." The latter article defines "other illegitimate children" as "illegitimate children other than natural in accordance with article 269 and other than natural children by legal fiction." Article 269 provides that children born outside wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, are natural."

With respect to natural children by legal fiction and acknowledged natural children, there is no problem because the law recognizes their successional rights.[17] But the point is, whether unacknowledged natural children come within the scope of "other illegitimate children" under article 287. If they do, then the question stops there because by including them within the scope of article 287, they become compulsory heirs by virtue of article 887 and, therefore, are entitled to share in the inheritance of their natural parents. But the way article 287 is worded does not seem to justify such a conclusion. It is very evident that article 287 excludes natural children under Article 269 for it says "other than natural children under article 269." To include them among the illegitimate children under article 287 would amount to saying that they are and are not at the time, which is illogical. Furthermore, if we admit that natural children under article 269 are included among illegitimates under article 287, then we must also equally admit that it includes natural children by legal fiction altho they are also among those excluded within the purview of said article 287. If that were so, then there is no point for the law in defining who these natural children by legal fiction are,[18] and in giving them more successional rights than illegitimate

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(3) Parents and acknowledged natural children and the legitimate or illegitimate descendants of the latter;

(4) Parents and natural children by legal fiction and the legitimate and illegitimate descendants of the latter;

(5) Parents and illigitimate children who are not natural."

[17] See note 16, Arts. 282 and 89.

Article 887, new Civil Code. "The following are compulsory heirs:

(1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;

(2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;

(3) The widow or widower;

(4) Acknowledged natural children, and natural children by legal fiction;

(5) Other illegitimate children referred to in article 287.

[18] Article 89 of the new Civil Code defines who these natural children by legal fiction are. Said article provides:

"Children conceived or born of marriages which are void from the beginning shall have the same status, rights and obligations as acknowledged natural children, and are called natural children by legal fiction."

children under article 287.[19] Under the new Civil Code, natural children by legal fiction have the same rights as acknowledged natural children,[20] while illegitimates under article 287 do not possess the same rights.

It is clear then that unacknowledged natural children under article 269 are not included within the meaning of "illegitimate children" under article 287 as among those who are considered as compulsory heirs. The conclusion seems to be inevitable, therefore, that natural children not acknowledge do not have any successional rights, at least in testamentary succession.

It may be argued, and rather strongly and convincingly, that to adopt such a construction would be most unjust to the unacknowledged natural children who would then be placed in a worse position than that of other illegitimate children. At first blush the argument would seem to be tenable. But it should be borne in mind that while in both cases filiation must first be determined, in the case of the natural child he is given the right to compel recognition within the period prescribed by law[21] once that filiation is established. That right is denied to other illegitimate children under article 287. Once recognized, the natural child is, under the law, entitled to greater successional rights than illegitimates under article 287.[22] All that he has to do, therefore, is to exercise the right. If he does not, he shall be deemed to have relinquished all rights against his presumptive parents.[23] In the case of "other illegitimate children," since they have no such right to compel recognition, the law steps in to protect them by granting them definite successional rights.

"Children conceived of voidable marriages before the decree of anulment shall be considered as legitimate; and children conceived threafter shall have the same status, rights and obligations as acknowledged natural children, and are called natural children by legal fiction."

[19] Article 895, new Civil Code. "The legitimate of each of the acknowledged natural children and each of the natural children by legal fiction shall consist of one-half of the legitimate of each of the legitimate children or descendants."

"The legitimate of an illegitimate child who is neither an acknowledged natural, nor a natural child by legal fiction, shall be equal in every case to four-fifths of the legitimate of an acknowledged natural child."

[20] See notes 16 and 18.

[21] Article 285, new Civil Code. "The action for recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

(1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority;

(2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document."

[22] See note 19.

[23] TOLENTINO, THE LAW ON SUCCESSION, WILLS AND ADMINISTRATION, p. 265.

The situation is rendered more confused in view of the provisions of the present Civil Code on legal succession. Article 962 provides that "in default of testamentary heirs, the law vests the inheritance, in accordance with the rules hereinafter set forth, in the legitimate and *illegitimate relatives* of the deceased, in the surviving spouse, and in the State." The term "illegitimate relatives" under the aforecited article may be broad enough to cover, if construed liberally, unacknowledged natural children under article 269. But again it may be doubted whether in law such a child can be considered as the *relative* of his parents. As to the mother, proof of birth and the identity of such a child is only a ground for compulsory recognition.[24] As to the father, such a child has no relation to him whatsoever because in law such a child's father is unknown. Even if he lives with his father in the same roof and is treated by the latter as his true child, still in law they are total strangers in the absence of any positive act of recognition on the part of the father either voluntarily or judicially. In the case of *Concepcion vs. Untaran* [25] the court held that "any right which a natural child may acquire, must arise from something else than the mere fact of birth." That the present Civil Code requires proof of filiation in order to establish the relationship between the child and the parent seems to be implied in article 993 which provides that "if an illegitimate child should die without issue, either legitimate or illegitimate, his father or mother shall succeed to his entire estate; and if the *child's filiation is duly proved* as to both parents, who are both living, they shall inherit from him share and share alike."

Both in testamentary and legal successions, it seems to be clear that under the present Civil Code, in spite of the avowed intention of the Code Commission to relax the rigid rules of the Civil Code of 1889,[26] natural children not acknowledged are in no better position than they were formerly. In short, the benign provisions of the new Civil Code do not benefit them unless they are acknowledged by their natural father or mother. This view is shared by

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[24] Article 284, new Civil Code. "The mother is obliged to recognize her natural child:

(1) In any of the cases referred to in the preceding article, Art. 283), as between the child and the mother;

(2) When the birth and the identity of the child are clearly proved."

Article 283 provides: "In the following cases, the father is obliged to recognize the child as his natural child:

(1) In case of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;

(2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;

(3) When the child was conceived during the time when the mother cohabited with the supposed father;

(4) When the child has in his favor any evidence or proof that the defendant is his father."

[25] 38 Phil. 736.

[26] See note 12.

some of the present professors of civil law in the University of the Philippines.[27] One of the most eminent scholars in civil law, Justice J. B. L. Reyes of the Court of Appeals, when interviewed by the writer, stated that he was of the opinion that natural children who are not recognized are deemed to have waived their rights to the inheritance of their natural parents either because they did not bring an action against their parents to compel recognition or because they have no proof to establish their filiation.

A judicial interpretation or legislative amendment clearly defining the rights of unacknowledged natural children under the new Civil Code at the earliest opportunity is thus welcome to render the law on this point clear and definite.

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[27] Professors Ramon Aquino, Vicente Abad Santos and Gerardo Florendo.

JUAN PONCE ENRILE