

## God's Hope for Humanity\*

*Magandang umaga po sa inyong lahat. Maayong buntag kaninyong tanan.* May I greet with a resounding *Mabuhay* all of the delegates from the 11 countries who are gathered here for this 13<sup>th</sup> Human Life International Asia Pacific Congress on Faith, Life and Family. Family life is a subject close to my heart; thus, I have readily accepted the invitation extended to me by His Eminence, Ricardo Cardinal Vidal and Dr. Rene Josef Bullecer, overall congress chairperson.

### *Present State of the Family*

In our Catholic world, the family, no doubt, plays a pivotal role; its influence is all pervasive. To an individual, the family is the most important reference group and the core of a person's alliance system. It is where one finds security, strength and support. Christian society accords high priority to loyalty to family and kin, family solidarity and togetherness, as well as concern for family welfare and honor.

In the Philippines, our Constitution, laws and jurisprudence have been traditionally protective of marriage, and of the family as the basic unit of our society. It is thus my purpose today to discuss how our Constitution, laws and jurisprudence

govern, affect and protect marriage and the family.

### *Constitutional Provisions on Marriage and the Family*

At the outset, let me cite briefly important mandates of our fundamental law on marriage and the family.

Our Constitution commands the State to protect marriage as an inviolable social institution and the foundation of the family.<sup>[1]</sup> As a policy, it requires the State to recognize the sanctity of family life. Accordingly, it directs (1) the State to protect and strengthen the family as a basic autonomous social institution; and (2) the government to support the natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character.<sup>[2]</sup> Thus, the State “shall equally protect the life of the mother and the life of the unborn from conception.”<sup>[3]</sup> Notice that the protection is from conception, not from birth; that is why abortion is outlawed in our country.

The State policy of protecting and strengthening the family has been given meaning and substance through Article XV. Under this provision, the State is required to recognize the Filipino family as the foundation of the nation. Accordingly, the State shall strengthen and actively promote the solidarity and total development of

the family.<sup>[4]</sup>

The Constitution upholds the right of the spouses to rear a family in accordance with their religious conviction and the demands of responsible parenthood.<sup>[5]</sup> Moreover, it provides for (1) the right of children to assistance -- including proper care and nutrition -- and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development; (2) the right of the family to a family living wage and income; and (3) the right of families or family associations to participate in the planning and implementation of policies and programs that affect them.<sup>[6]</sup> It even enjoins the family and the State to care for their elderly members.<sup>[7]</sup>

Working women are protected by provisions for safe and healthful working conditions that take into account their maternal functions. They are also provided with facilities and opportunities that could enhance their welfare and enable them to realize their full potential in the service of the nation.<sup>[8]</sup>

### *Family Code Provisions*

The Constitutional mandates on marriage and the family are elucidated in the Family Code of the Philippines.<sup>[9]</sup> The Code defines marriage as follows:

“Marriage is a special contract of permanent union between a man and a woman,

entered into in accordance with law, for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences and incidents, are governed by law and are not subject to stipulation x x x.”<sup>[10]</sup>

Early on, family relations were governed primarily by the Civil Code of the Philippines.<sup>[11]</sup> Since August 3, 1988,<sup>[12]</sup> however, its provisions on marriage and family relations were supplanted by the Family Code to make them more relevant to Filipino customs, values, ideals and current trends in Philippine society. Our Muslim brethren, on the other hand, are covered by the special provisions of the Muslim Code of Personal Laws.

The inviolability of marriage is the basis for prohibiting divorce in our jurisdiction. Thus, only legal separation is recognized in the Philippines. Even in cases in which legal separation is allowed, the law decrees that courts must first take steps towards reconciling the spouses. Before tackling the issue of separation, the courts must be fully satisfied that reconciliation is highly improbable.<sup>[13]</sup>

Article 149 of the Family Code recognizes the family as the foundation of the nation; and as a basic social institution that public policy cherishes and protects. Consequently, family relations are governed by law; no customs, practice or agreement destructive of the family shall be recognized or given effect.

Preservation of family harmony as a legal policy is also evident in Article 151 of the Code. This Article provides that no suit between members of the same family

shall prosper unless the verified complaint or petition shows that earnest efforts towards a compromise have first been made, but have failed. Without these efforts, the case must be dismissed. This rule, however, will not apply to cases that may not be the subject of compromise.<sup>[14]</sup>

Another measure that protects the family from being torn apart by homelessness is the establishment of a family home. Under the current provisions, the family home is deemed constituted from the time it is occupied as a family residence and it shall continue as such for as long as any of its beneficiaries actually resides there.<sup>[15]</sup> In addition, it shall be exempt from foreclosure, forced sale, or attachment, except when the Family Code provides otherwise.<sup>[16]</sup>

Significant changes were further introduced by the Code. Thus, (1) the husband and wife now jointly decide where the family domicile will be established,<sup>[17]</sup> and they are jointly responsible for the support and management of the family and household;<sup>[18]</sup> (2) the administration and enjoyment of the communal or the conjugal partnership property belong to both spouses jointly,<sup>[19]</sup> so that any disposition of a conjugal property by the husband as administrator is void without the written consent of the wife in appropriate cases; and (3) both spouses jointly exercise legal guardianship over the property of their unemancipated common children.<sup>[20]</sup>

### ***Other Laws that Protect the Family***

Still other laws deal with certain aspects of the family and family relations. The Child and Youth Welfare Code (Presidential Decree No. 603, as amended), for instance, gives special emphasis on children by providing a basic framework for their development and protection. It defines the rights and the responsibilities of children; as well as the responsibilities of the family, community, *samahan* (association), school, church and the State in ensuring the proper development of children. It likewise presents administrative measures and programs for the care and treatment of special children; namely, those who have been abandoned, neglected, dependent, working, physically disabled and emotionally disturbed children, as well as youth offenders.

Measures to protect children are further provided in Republic Act No. 7610, which provides for stronger deterrence and special protection against child abuse, exploitation and discrimination. This law was amended by Republic Act No. 7658 to enforce the policy against child labor.

In the rule on evidence, the family is treated as an enclosure for security and spontaneity in communication; thus, one spouse cannot be compelled to testify against the other in criminal proceedings. Philippine labor laws also provide family support systems, such as social security, disability benefits, paternity and maternity leaves; and assistance to families that care for their dependants.

Even our Local Government Code, Republic Act No. 7160 (1991), gives

premium to the Filipino family. It mandates the implementation of family and community welfare and development services by the local government units under the guidance of the Department of Social Welfare and Development (DSWD).<sup>[21]</sup>

### *Supreme Court Decisions on Psychological Incapacity*

In line with the constitutional policy of preserving the family, the Supreme Court has tackled various family issues. Allow me to relate to you some of these cases.

As you may know, the Family Code has introduced an entirely new ground (in addition to those enumerated in the Civil Code) to assail the validity of a marriage: “psychological incapacity.” Since the effectivity of the Family Code, our courts have been swamped with petitions to declare marriages void based on this ground. To avoid precipitate and indiscriminate declarations of the nullity of marriages, the Supreme Court had to examine and evaluate more carefully and minutely every circumstance that might have some bearing on the degree, extent, and other conditions of psychological incapacity.

To clarify, I must point out that petitions for the declaration of nullity of a marriage pertain to cases in which there is no marriage to speak of in the first place, because of a fatal defect existing at the time it was celebrated. Thus, a nullity is not equivalent to a divorce, which cuts the bonds of a previously valid marriage. Before

Church Law, the validity of marriage may be contested with a plea of nullity, never with an action for annulment. The distinction is well-known and rather clear: a marriage decision in favor of nullity is merely a declaration that the union has been void from its very start on account of either lack or deficiency of canonical form, the presence of an impediment, and/or a defect in matrimonial consent.

According to Church doctrine, a marriage is either valid or void – never valid, yet voidable. Before Civil law, however, a marriage may be valid, void or voidable. Hence, Civil Courts render not only decisions of “nullity,” but also judgments of “annulment,” whereby a valid but voidable marriage is annulled.<sup>[22]</sup>

In *Santos v. Court of Appeals*,<sup>[23]</sup> the Court interpreted psychological incapacity as “no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage x x x.” Many judges and lawyers, however, found it difficult to apply the novel definition in specific cases.

Thus, the Court had to explain more clearly the nullity of the marriage of Reynaldo and Roridel Molina in *Republic v. Molina*.<sup>[24]</sup> Branding Article 36 as the “most liberal divorce procedure in the world,” the Office of the Solicitor General (OSG) had asked the Supreme Court not only to decide the dispute between the spouses, but also



to issue guidelines for determining when psychological incapacity may be used to nullify a marriage.

Thus, the real significance of this Decision, which I was privileged to write on behalf of the High Court, was not in its refusal to declare the Molina marriage void, but in its formulation of rules for the evaluation of similar cases. Indeed, among the functions of the Supreme Court is to teach and to open new vistas. To guide the bench, the bar and the public in interpreting and applying “psychological incapacity” as a ground for declaring marriages void, the Court thus issued several guidelines, as follows:

- “(1) **The burden of proof to show the nullity of the marriage belongs to the plaintiff.** Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. x x x.
- “(2) **The *root cause* of the psychological incapacity must be: (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision.** Article 36 of the Family Code requires that the incapacity must be psychological - not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. x x x.
- “(3) **The incapacity must be proven to be existing at ‘the time of the celebration’ of the marriage.** The evidence must show that the illness was existing when the parties exchanged their ‘I do’s.’ x x x.
- “(4) **Such incapacity must also be shown to be medically or clinically permanent or *incurable*.** Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations x x x.
- “(5) **Such illness must be *grave* enough to bring about the disability of the party to assume the essential obligations of marriage.** Thus, ‘mild characterological peculiarities, mood changes, occasional emotional outbursts’ cannot be accepted as *root* causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. x x x.
- “(6) **The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the**

**same Code in regard to parents and their children.** Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.

- “(7) **Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts.** x x x
- “(8) **The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state.** No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. x x x.”

Recognizing that Article 36 of the Family Code was rooted in Canon 1095 of the Canon Law,<sup>[25]</sup> the Court hewed closely to the Church’s characterization of what constituted a ground to declare a marriage void ab initio. Derived from Canon Law is the principle that the “psychological incapacity” must be *grave, incurable* and *existing at the time of the celebration of the marriage*.

Although this Decision, which I authored, was unanimously carried by the full 15-member Court, it was criticized by many lawyers for its alleged “strictness.” My standard reply was that *Molina* was strict only insofar as Article 36 were to be construed as a divorce law, but reasonable if it was correctly deemed to be a ground for declaring a marriage void, not “ended” -- one that had never been and therefore could not be “cut.”

The guidelines formulated in the *Molina* case were modified later in the year 2003, when I was not yet Chief Justice; thus, the Supreme Court amended the rules governing petitions for the declaration of nullity or annulment of marriages.<sup>[26]</sup> The

provision requiring the Office of the Solicitor General to appear as counsel to defend marriage was abandoned. I dissented strongly against this amendment.<sup>[27]</sup>

If I may explain, the *Molina* guidelines providing for the active participation and intervention of the OSG were made to ensure that the State acted as defender of marriage in the same way that the *defensor vinculi*<sup>[28]</sup> was required to render opposition actively in church annulment cases. I felt that without the participation of the OSG, cases decided by the lower courts might no longer be appealed to the Supreme Court; hence, there was nothing to ensure that the required proof was adduced, or to guard against the parties' collusion with each other to have the marriage declared void.

Nonetheless, despite the amendment, I am happy to report that the Court's strict scrutiny of petitions for declaration of marriage nullity remained. Our Supreme Court has thus ruled, at least in those cases elevated to it, that sexual infidelity, perversion, or abandonment do not by themselves constitute psychological incapacity within the contemplation of the Family Code.<sup>[29]</sup> Neither may one spouse's emotional immaturity and irresponsibility be equated with psychological incapacity.<sup>[30]</sup> These acts must be shown to be manifestations of a *disordered personality*, which make respondent *completely* unable to discharge the essential obligations of the marital state. They must not be due merely to a spouse's youth, immaturity<sup>[31]</sup> or sexual promiscuity.

## *Judicial Declaration of Nullity of First Marriage*

The judicial declaration of nullity of the previous marriage before one may remarry is expressly required by another new provision in the Family Code, Article 40, which states, as follows:

“ART. 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such marriage void.”

As writer of the Supreme Court’s Decision in *Mercado v. Tan*<sup>[32]</sup> (a criminal case for bigamy), I emphasized that Article 40 of the Family Code had cast aside the statutory mooring of *People v. Mendoza*<sup>[33]</sup> and *People v. Aragon*.<sup>[34]</sup> Both of these latter cases held that there was no need for a judicial declaration of nullity of a marriage. Thus, that declaration is now necessary before a spouse can contract a second marriage. Without it, a person may be charged with and convicted of bigamy.

This new ruling in *Mercado v. Tan* was strengthened by *Bobis v. Bobis*,<sup>[35]</sup> which was unanimously promulgated almost on the same day. *Bobis* held that the subsequent filing of a civil action for the declaration of nullity of a previous marriage did not constitute a “prejudicial question” and therefore did not suspend the proceedings in a

criminal case for bigamy. The reason was that such declaration, even if obtained, would not have abated the criminal prosecution for the two marriages.<sup>[36]</sup>

### *Strict Scrutiny of Annulment Petitions*

Through the years, the Court has consistently upheld the sanctity of marriage and the solidarity of the family by strictly scrutinizing proceedings for the annulment of marriage or the declaration of its nullity. In cases of doubt, it has affirmed the wedding's validity.

In *Ancheta v. Ancheta*,<sup>[37]</sup> for example, the Supreme Court expressed alarm at the way the trial court, without any objection from the public prosecutor, had declared petitioner in default and proceeded with the trial of the case and the presentation of respondent's evidence in the absence of the complaining spouse.

Reiterating its ruling in *Malcampo-sin v. Sin*,<sup>[38]</sup> the High Court emphasized that the judiciary was tasked with the protection of marriage as an inviolable social institution. This judicial objective was not mere pro-forma and useless talk, but one that required vigilant and zealous protection. The Supreme Court held that the safeguarding of marriage as a sacred institution required not just the defense of a true and genuine union, but the exposure of an invalid one as well:

“Our Constitution is committed to the policy of strengthening the family as a basic social institution. Our family law is based on the policy that marriage is not a mere contract, but a social institution in which the State is vitally interested. The State can find no stronger anchor than on good, solid and happy families. The break-up of families weakens our social and moral fabric; hence, their preservation is not the concern of the family members alone. Whether or not a marriage should continue to exist or a family should stay together must not depend on the whims and caprices of only one party, who claims that the other suffers psychological imbalance, incapacitating such party to fulfill his or her marital duties and obligations.”<sup>[39]</sup>

### *Protection of the Family in Administrative Proceedings*

To protect the family, the Supreme Court has leaned on the Constitution and the laws in sanctioning the officials and employees of the judiciary, as well as members of the legal profession.

In *Beso v. Daguman*,<sup>[40]</sup> respondent judge, in violation of Article 23 of the Family Code, solemnized a marriage outside his jurisdiction and without proper documentation. In this case, the Supreme Court stressed that an elementary regard for the judicial doctrines laid down by superior authority and for sacredness of laws -- especially those enacted to preserve so sacrosanct a social institution as marriage -- should have made the judge more vigilant in the exercise of his authority as

solemnizing officer.

Indeed, the Supreme Court has never hesitated to discipline and impose the severest sanctions on erring members and employees of the judiciary. In suspending a court stenographer found to have an illicit relationship with another employee who was married, it held that there was no dichotomy of morality; thus, court employees should also be judged by their public as well as private morals. <sup>[41]</sup>

In *Narag v. Narag*,<sup>[42]</sup> the High Court stressed that parents had not only rights but also duties toward their children. Among these duties were to support, educate and instruct them according to right precepts and good example; and to accord them love, companionship and understanding, as well as moral and spiritual guidance. The Court likewise reminded Atty. Narag, the respondent husband, that he was obliged to live with his wife; to observe mutual love, respect and fidelity; and to give her help and support. The moral delinquency that affected the fitness of a member of the bar to continue as such, the Court added, included conduct that outraged the generally accepted moral standards of the community, as when one made a mockery of the inviolable social institution of marriage. Consequently, Atty. Narag was disbarred from the practice of law.

### *Family Courts*

While on this point, I would like to say a few things regarding the establishment of family courts in the Philippines. On October 28, 1997, Republic Act No. 8369 (entitled “Family Courts Act of 1997”) was approved into law. It established family courts, granting them exclusive original jurisdiction over child and family cases.<sup>[43]</sup> These courts were envisioned to advance the State policies of protecting the rights and promoting the welfare of children. In keeping with the mandate of the Constitution and the precepts of the United Nations Convention on the Rights of the Child, these courts were tasked to provide a system of adjudication for youthful offenders, taking into account their peculiar circumstances. Recognizing the sanctity of family life, the courts are required to preserve the solidarity of the family, as well as to provide procedures for the reconciliation of spouses and the amicable settlement of family controversies.<sup>[44]</sup>

In line with the law establishing family courts, their presiding judge and court personnel are required not only to undergo special training, but also to demonstrate their ability to deal with child and family cases. For this purpose, the Supreme Court provides a continuing education program on child and family laws, procedure and other related disciplines.<sup>[45]</sup>

During all hearings and conciliations of child and family cases, our courts are



mandated to promote the child's and the family's dignity and worth as well as to respect their privacy. Records of the cases shall be treated with utmost confidentiality, and the identity of parties shall not be divulged unless necessary and with authority from the judge.<sup>[46]</sup>

In addition, as part of the judiciary's vision of providing an accessible, inexpensive, efficient and effective justice system, the Supreme Court promulgated new rules for family court cases on March 15, 2003. These rules make the family courts more accessible to affected party-litigants.

### ***Marriage and the Family in Other Countries***

As the Philippine judiciary continues to pursue efforts to help protect the family, it realizes that, now and then, courts are confronted with new challenges. While some of these problems stem from our own society, more and more emanate from changes and developments in other countries. Some of the trends<sup>[47]</sup> that impact on families elsewhere around the globe are (1) changes in family structures, (2) demographic ageing, and the (3) rise of migration. The “negative effects” of these onslaughts require all of us to remain vigilant in protecting our families.

### **Changes in Family Structures**

During the last 50 years, there has been an evident shift from extended to nuclear families. Also on the rise are one-person households, as well as cohabitation without marriage. Falling fertility rates, migration, and increases in divorce rates and the number of older persons are responsible for smaller-size households, which have fallen to an average of 3.7 persons in East Asia, 4.9 in Southeast Asia, 4.1 in the Caribbean, 5.7 in North Africa and 2.8 in developed regions. Age at first marriage has risen to between the mid to late 20s in all regions of the world, often as a result of better educational and employment opportunities for women. Further, women are becoming mothers later in life and are having fewer children. Current fertility rates are 1.57 children per woman in developed regions, 3.1 in less developed countries, and 5.47 in the least developed countries.

## **Demographic Ageing**

On the other hand, lower fertility rates and higher life expectancies account for a bigger group of older persons within the overall population. Globally, the elderly (60 years and over) will more than triple from 606 million to 2 billion by 2050. In developed regions, 20 per cent of the population are older than 60; by 2050, they shall have reached 33 per cent. Their share in developing regions will increase from 8 per cent to 20 per cent. (I guess these statistics are relevant to most of us here in this room. They just mean that our world is getting wiser with people like us!)

Of course, what is more telling from these data is that support ratios (or the number of working people in relation to retired persons) have been declining. Ageing also impacts on inter-generational solidarity, housing, social security systems, care giving and health costs.

### ***Rise of Migration***

Today, 175 million people (or 3 per cent of the world's population) reside outside their country of birth. In fact, there were 20 million refugees in 2001. The main causes of migration have been violence, discrimination, natural disasters, and the hope for better economic opportunities.

Migration can be a major stress on family life due to cultural, ethnic, racial and religious differences, and the lack of integration. Seasonal and internal migration of men, in particular, contributes to higher numbers of female-headed households around the world. Worse, the trafficking and sexual exploitation of women and children have increased and have become major activities of organized crime.

These trends challenge not only the ability to fulfill basic human functions of production, reproduction and socialization; they also test the needs of family members for health, nutrition, shelter, physical and emotional care, and personal development.

## **Closing**

In the face of these challenges, the Philippines realizes that the family remains to be our single most important hope in keeping our societies intact and functional. Thus, I believe that safeguarding and enhancing the family's well-being is not just a responsibility of the Church and the State. Rather, it is the responsibility of every one who cares enough to strengthen and promote the solidarity and total development of the family.

As I close, let me lay stress that the union of a man and woman is the most enduring human institution -- honored and encouraged in all cultures and by every religious faith. Ages of experience have taught humanity that the commitment of a husband and wife to love and to serve each other promotes the welfare of children and the stability of society.

A legacy that we can give to our children is this cherished value of family-centeredness. We must provide them, then, with good role models. As they will carry the torch into the next millennium, it is important that we equip them with the necessary tools to inherit and represent our community. This we can do by defending and strengthening the family, God's hope for humanity.

\* Speech I delivered during the 13<sup>th</sup> Human Life International Asia-Pacific Congress on Faith, Life & Family, held on October 8, 2006, at the Parklane International Hotel in Cebu City.

[1] CONSTITUTION, Art. XV, Sec. 2.

[2] Id., Art. II, Sec. 12.

[3] Id.

[4] Art. XV, Sec.1.

[5] Article XV, Section 3(1).

[6] Id., Secs. 3(2), 3, 4.

[7] Id., Sec. 4.

[8] Art. XII, Sec.14.

[9] Executive Order No. 209.

[10] THE FAMILY CODE OF THE PHILIPPINES, Art. 1.

[11] Republic Act No. 386.

[12] Although passed on July 6, 1987, the Code, as provided under Article 256, took effect one year after the completion of its publication in a newspaper of general circulation.

[13] Id., Art. 59.

[14] Under Article 2035 of the Civil Code, the following cases may not be the subject of compromise:

- (1) The civil status of persons
- (2) The validity of a marriage or a legal separation
- (3) Any ground for legal separation
- (4) Future support
- (5) The jurisdiction of courts
- (6) Future legitime

[15] FAMILY CODE, Arts. 152, 153 and 154. Under Philippine tax law, the decedent's family home is specifically exempted from estate tax. Furthermore, heads of the family are allowed deductions and personal exemptions for dependents.

[16] Under Article 155 of the Family Code, the family home shall be exempt from execution, forced sale or attachment except:

- “(1) For non-payment of taxes;
- “(2) For debts incurred prior to the constitution of the family home;
- “(3) For debts secured by mortgages on the premises before or after such constitution; and
- “(4) For debts due to laborers, mechanics, architects, builders, materialmen and

others who have rendered service or furnished material for the construction of the building.”

[17] FAMILY CODE, Sec. 69.

[18] Id., Arts. 70-71.

[19] Id., Arts. 96 and 124.

[20] Id., Art. 225.

[21] Under the law, the DSWD retains these functions:

- (a) Formulation of programs, policies, rules, regulations and standards relative to the implementation of family and community welfare and development services;
- (b) Initiation and administration of pilot or special projects for demonstration of the corresponding policies, programs, services, strategies, methods, procedures and guidelines prior to nationwide implementation; and
- (c) Evaluation, and provision of technical assistance and consultative services to operating units and local government welfare departments on program implementation.

[22] ARCHBISHOP OSCAR V. CRUZ, IMPEDIMENTS TO CANONICAL MARRIAGE, 196 (2002).

[23] 240 SCRA 20, January 4, 1995, per Vitug, *J.*

[24] 268 SCRA 198, February 13, 1997.

[25] CANON 1095. The following are incapable of contracting marriage:

1. those who lack sufficient use of reason;
2. those who suffer from a grave lack of discretionary judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted;
3. those who, because of causes of a psychological nature, are unable to assume the essential obligations of marriage.

[26] A.M. No. 02-11-10-SC, effective March 15, 2003.

[27] See PANGANIBAN, THE BIO-AGE DAWNS ON THE JUDICIARY, 247-267 (2003), for a full discussion of my dissent on this amended Rule.

[28] Otherwise known as the Defender of the Bond. The pertinent Canons provide:

“Can. 1432. A defender of the bond is to be appointed in the diocese for cases which deal with the nullity of ordination or the nullity or dissolution of marriage. The defender of the bond is bound by office to present and expound all that can reasonably be argued against the nullity or dissolution.

“Can. 1433 In cases in which the presence x x x of the defender of the bond is required, the acts are invalid if they were not summoned. This does not apply if, although not summoned, they were in fact present or, having studied the acts, able to fulfil their role at least before the judgement.

“Can. 1434 Unless otherwise expressly provided:

1° whenever the law directs that the judge is to hear the parties or either of them, the promotor of justice and the defender of the bond are also to be heard if they

are present;

2° whenever, at the submission of a party, the judge is required to decide some matter, the submission of the promotor of justice or of the defender of the bond engaged in the trial has equal weight.

“Can. 1435 It is the Bishop’s responsibility to appoint the promotor of justice and defender of the bond. They are to be clerics or lay persons of good repute, with a doctorate or a licentiate in canon law, and of proven prudence and zeal for justice.

“Can. 1436 §1 The same person can hold the office of promotor of justice and defender of the bond, although not in the same case.

§2 The promotor of justice and the defender of the bond can be appointed for all cases, or for individual cases. They can be removed by the Bishop for a just reason. [CIC 1983].”

[29] *Dedel v. CA*, 421 SCRA 461, January 29, 2004.

[30] *Perez-Ferraris v. Brix Ferraris*, GR No. 162368, July 17, 2006; *Choa v. Choa*, 441 Phil. 175, November 26, 2002; *Republic v. Dagdag*, 351 SCRA 425, February 9, 2001.

[31] *Hernandez v. CA*, 377 Phil. 919, December 8, 1999.

[32] 391 Phil. 809, August 1, 2000.

[33] 95 Phil. 845, September 28, 1954.

[34] 100 Phil. 1033, February 28, 1957.

[35] 391 Phil. 648, July 31, 2000.

[36] *See also Beltran v. People*, 389 Phil. 447, June 20, 2000.

[37] 424 SCRA 725, March 4, 2004. In *Republic v. Dagdag* (supra), while the Supreme Court upheld the validity of the marriage therein, it nevertheless characterized the decision of the trial court as “prematurely rendered” because the investigating prosecutor was not given an opportunity to present controverting evidence before the judgment was rendered.

[38] 355 SCRA 285, March 26, 2001; *see also Republic v. Court of Appeals*, 335 Phil. 664, February 13, 1997.

[39] Per Callejo, Sr. J.

[40] 323 SCRA 566, January 28, 2000.

[41] *Acebedo v. Arquero*, 447 Phil. 76, March 11, 2003.

[42] 353 Phil. 643, June 29, 1998.

[43] SECTION 5. *Jurisdiction of Family Courts*. - The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:

“a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age but not less than nine (9) years of age or where one or more of the victims is a minor at the time of the commission of the offense: Provided, That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred.

“The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the "Child and Youth Welfare Code";

“b) Petitions for guardianship, custody of children, habeas corpus in relation to the latter;

“c) Petitions for adoption of children and the revocation thereof;

“d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains;

“e) Petitions for support and/or acknowledgment;

“f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the *"Family Code of the Philippines"*;

“g) Petitions for declaration of status of children as abandoned, dependent or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56, (Series of 1986), and other related laws;

“h) Petitions for the constitution of the family home;

“i) Cases against minors cognizable under the Dangerous Drugs Act, as amended;

“j) Violations of Republic Act No. 7610, otherwise known as the *"Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,"* as amended by Republic Act No. 7658; and

“k) Cases of domestic violence against:

1) Women - which are acts of gender based violence that results, or are likely to result in physical, sexual or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman's personhood, integrity and freedom movement; and

2) Children - which include the commission of all forms of abuse, neglect, cruelty, exploitation, violence, and discrimination and all other conditions prejudicial to their development.

“If an act constitutes a criminal offense, the accused or batterer shall be subject to criminal proceedings and the corresponding penalties.

“If any question involving any of the above matters should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court.”

[44]

RA 8669, Sec. 2.

[45]

Id., Sec.4.

[46]

Id., Sec.12.

[47]

<http://www.un.org/esa/socdev/family/majortrends.htm>.