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Refugee Documentation Centre
Country Marriage Pack
Philippines

Disclaimer

Country Marriage Packs (CMPs) are prepared by researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. CMPs contain a selection of representative links to and excerpts from sources under a number of categories for use as Country of Origin Information. Please note that CMPs are not, and do not purport to be, exhaustive with regard to conditions in the countries surveyed or conclusive as to the merit of any particular claim to refugee status or protection.

1. Types of Marriage

Civil Marriages

EXECUTIVE ORDER NO. 209 July 6, 1987 Title 1 Chap. 3 Sec. 39 Amended by RA 8533 The Family Code of the Philippines states:

“Art. 1. 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 not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code. (52a)

Art. 2. No marriage shall be valid, unless these essential requisites are present:

(1) Legal capacity of the contracting parties who must be a male and a female; and

(2) Consent freely given in the presence of the solemnizing officer. (53a)” (Philippine National Government (July 6, 1987) *Executive Order No. 209 The Family Code of the Philippines*)

Religious Marriages

Art.6 of the *Family Code of the Philippines* states:

“No prescribed form or religious rite for the solemnization of the marriage is required. It shall be necessary, however, for the contracting parties to appear personally before the solemnizing officer and declare in the presence of not less than two witnesses of legal age that they take each other as husband and wife. This declaration shall be contained in the marriage certificate which shall be signed by the contracting parties and their witnesses and attested by the solemnizing officer.”

According to Art.7 (2), a marriage may be solemnized by “Any priest, rabbi, imam, or minister of any church or religious sect duly authorized by his church or religious sect and registered with the civil registrar general, acting within the limits of the written authority granted by his church or religious sect and provided that at least one of the contracting parties belongs to the solemnizing officer’s church or religious sect” (Ibid)

A Primer on the Code of Muslim Personal Laws of the Philippines produced by the Asian Institute of Journalism and Communication under “ON MARRIAGE” states:

“TO WHOM DOES THE PROVISION ON MARRIAGE AND DIVORCE APPLY?

The CMPL applies to marriage and divorce wherein:

Both parties are Muslims, or

Only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or this Code in any part of the Philippines. (Art. 13.1)

WHEN WILL THE CMPL NOT APPLY IN CASE OF A MARRIAGE BETWEEN A MUSLIM AND A NON-MUSLIM?

In case of a marriage between a Muslim and a non-Muslim that has been solemnized not in accordance with Muslim law or this Code, the Civil Code of the Philippines shall apply. (Art. 13.2)

WHAT ARE REQUIRED FOR MARRIAGE?

Legal capacity of the contracting parties

Mutual consent of the parties freely given

Offer (ijab) and acceptance (qabul) duly witnessed by at least two competent persons after the proper guardian in marriage (wali) has given his consent

Stipulation of customary dower (mahr) duly witnessed by two competent persons.

(Art. 15)” (Asian Institute of Journalism and Communication (Undated) *A Primer on the Code of Muslim Personal Laws of the Philippines*)

Traditional/Other Marriages

See above.

Proxy Marriage

No information on the above issue could be found among sources consulted by the Refugee Documentation Centre.

2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)

EXECUTIVE ORDER NO. 209 July 6, 1987 Title 1 Chap. 3 Sec. 39 Amended by RA 8533 The Family Code of the Philippines states :

“Art. 2. No marriage shall be valid, unless these essential requisites are present:

(1) Legal capacity of the contracting parties who must be a male and a female; and

(2) Consent freely given in the presence of the solemnizing officer. (53a)

Art. 3. The formal requisites of marriage are:

- (1) Authority of the solemnizing officer;
- (2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and
- (3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age. (53a, 55a)

Art. 4. The absence of any of the essential or formal requisites shall render the marriage void ab initio, except as stated in Article 35 (2).

A defect in any of the essential requisites shall not affect the validity of the marriage but the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable. (n)

Art. 5. Any male or female of the age of eighteen years or upwards not under any of the impediments mentioned in Articles 37 and 38, may contract marriage. (54a)

Art. 6. No prescribed form or religious rite for the solemnization of the marriage is required. It shall be necessary, however, for the contracting parties to appear personally before the solemnizing officer and declare in the presence of not less than two witnesses of legal age that they take each other as husband and wife. This declaration shall be contained in the marriage certificate which shall be signed by the contracting parties and their witnesses and attested by the solemnizing officer.

In case of a marriage in articulo mortis, when the party at the point of death is unable to sign the marriage certificate, it shall be sufficient for one of the witnesses to the marriage to write the name of said party, which fact shall be attested by the solemnizing officer. (55a)

Art. 7. Marriage may be solemnized by:

- (1) Any incumbent member of the judiciary within the court's jurisdiction;
- (2) Any priest, rabbi, imam, or minister of any church or religious sect duly authorized by his church or religious sect and registered with the civil registrar general, acting within the limits of the written authority granted by his church or religious sect and provided that at least one of the contracting parties belongs to the solemnizing officer's church or religious sect;
- (3) Any ship captain or airplane chief only in the case mentioned in Article 31;
- (4) Any military commander of a unit to which a chaplain is assigned, in the absence of the latter, during a military operation, likewise only in the cases mentioned in Article 32;
- (5) Any consul-general, consul or vice-consul in the case provided in Article 10. (56a)

Article. 8. The marriage shall be solemnized publicly in the chambers of the judge or in open court, in the church, chapel or temple, or in the office the consul-general, consul or vice-consul, as the case may be, and not elsewhere, except in cases of

marriages contracted on the point of death or in remote places in accordance with Article 29 of this Code, or where both of the parties request the solemnizing officer in writing in which case the marriage may be solemnized at a house or place designated by them in a sworn statement to that effect. (57a)

Art. 9. A marriage license shall be issued by the local civil registrar of the city or municipality where either contracting party habitually resides, except in marriages where no license is required in accordance with Chapter 2 of this Title (58a)” (ibid)

Article 23 states:

“It shall be the duty of the person solemnizing the marriage to furnish either of the contracting parties the original of the marriage certificate referred to in Article 6 and to send the duplicate and triplicate copies of the certificate not later than fifteen days after the marriage, to the local civil registrar of the place where the marriage was solemnized. Proper receipts shall be issued by the local civil registrar to the solemnizing officer transmitting copies of the marriage certificate. The solemnizing officer shall retain in his file the quadruplicate copy of the marriage certificate, the copy of the marriage certificate, the original of the marriage license and, in proper cases, the affidavit of the contracting party regarding the solemnization of the marriage in place other than those mentioned in Article 8. (68a) “(Ibid)

A Primer on the Code of Muslim Personal Laws of the Philippines produced by the Asian Institute of Journalism and Communication states:

“WHO MAY CONTRACT MARRIAGE?

Any Muslim male at least fifteen years of age and any Muslim female of the age of puberty or upwards and not suffering from any impediment under the provisions of this Code may contract marriage. A female is presumed to have attained puberty upon reaching the age of fifteen. (Art. 16.1)

CAN A FEMALE BELOW FIFTEEN YEARS OF AGE CONTRACT MARRIAGE?

Yes. The Shari’a District Court may, upon petition of a proper wali, order the solemnization of the marriage of a female who, though less than fifteen but not below twelve years of age, has attained puberty. (Art. 16.2)

IF ANY OF THE CONTRACTING PARTIES IS BELOW THE PRESCRIBED AGE, WHAT HAPPENS TO THE MARRIAGE?

Marriage through a wali by a minor below the prescribed age shall be regarded as betrothal. It may be annulled upon the petition of either party within four years after attaining the age of puberty, provided no voluntary cohabitation has taken place and the wali who contracted the marriage was other than the father or paternal grandfather. (Art. 16.3)” (ibid)

3. Divorce

Under Philippines law there is no divorce procedure only annulment. Filipino citizens, no matter what their country of residence must follow the procedure indicated in the Family Code of the Philippines to have their marriage nullified or voided by filing a Petition of Annulment of Marriage before the pertinent Office of the Executive Clerk of Court of the Regional Court.

Art 26 of EXECUTIVE ORDER NO. 209 July 6, 1987 Title 1 Chap. 3 Sec. 39 Amended by RA 8533 The Family Code of the Philippines states :

“All marriages solemnized outside the Philippines in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law.” (ibid)

The US Department of State in *Country Reports on Human Rights Practices for 2012: Philippines* states:

“The law does not provide for divorce, although courts generally recognized the legality of divorces obtained in other countries if one of the parties was a foreign national. A legal annulment may terminate a marriage, but its cost precluded it as an option for many families. Many lower-income couples simply separated informally without severing their legal marital ties. The law provides that in child-custody cases resulting from annulment, illegitimacy, or divorce in another country, children under age seven are to be placed in the care of the mother unless there is a court order to the contrary. Children age seven and older normally are also to remain with the mother, although the father may dispute custody through the courts. “(US Department of State (19 April 2013) *Country Reports on Human Rights Practices for 2012: Philippines*)

A report from BBC News entitled *Philippines eyes easier marriage annulment* states:

“A bill has been put forward in the Philippine Congress aimed at making it easier for poor people to get their marriages annulled.

The bill would make violence, infidelity and abandonment all grounds for annulment.

The Philippines is one of the few places in the world - alongside the Vatican and Malta - where divorce is still prohibited.

Annulments are currently too expensive for anyone but the rich to contemplate.

First, couples have to prove that their marriage licence is not valid or that one person is, in legal terms at least, psychologically incapacitated.

It is an expensive procedure, and Congressman Neri Colmenares says the system discriminates against those who cannot afford to hire lawyers and psychiatrists.

He wants the bill to be simplified, so that anyone who can prove their partner has been violent, abandoned the family home or is guilty of infidelity is automatically assumed to have a form of "psychological incapacity".” (BBC News (18 January 2011) *Philippines eyes easier marriage annulment*)

BBC News in an article entitled *Philippines debates divorce law change* states:

“A congressional committee in the Philippines is due to start discussing a bill to legalise divorce.

The Philippines and the Vatican are now the only places in the world where divorce is prohibited, after Malta voted to remove its ban last weekend.

But the passage of this bill is far from certain, as the influential Catholic Church is fiercely opposed to any change in the law.” (BBC News (1 June 2011) *Philippines debates divorce law change*)

A Primer on the Code of Muslim Personal Laws of the Philippines in a section entitled “ON DIVORCE” states:

“WHAT IS DIVORCE?

Divorce is the formal dissolution of the marriage bond in accordance with this Code to be granted only after the exhaustion of all possible means of reconciliation between the spouses. (Art. 45)

WHAT ARE THE FORMS OF DIVORCE?

Repudiation of the wife by the husband (talaq)

Vow of continence by the husband (ila)

Injurious assimilation of the wife by the husband (zihar)

Acts of imprecation (li’an)

Redemption by the wife (khul’)

Exercise by the wife of the delegated right to repudiate (tafwid)

Judicial decree (faskh) (Art. 45)

WHAT IS DIVORCE BY TALAQ?

A divorce by talaq may be effected by the husband in a single repudiation of his wife during her non-menstrual period (tuhr) within which he has totally abstained from carnal relation with her. Any number of repudiations made during one tuhr shall constitute only one repudiation and shall become irrevocable after the expiration of the prescribed ‘idda.

A husband who repudiates his wife, either for the first or second time, shall have the right to take her back (ruju’) within the prescribed ‘idda by resumption of cohabitation without need of a new contract of marriage. Should he fail to do so, the repudiation shall become irrevocable (talaq bain sugra). (Art. 46)” (ibid)

4. Marriage between Non Nationals and Nationals

EXECUTIVE ORDER NO. 209 July 6, 1987 Title 1 Chap. 3 Sec. 39 Amended by RA 8533 The Family Code of the Philippines states :

“Art. 21. When either or both of the contracting parties are citizens of a foreign country, it shall be necessary for them before a marriage license can be obtained, to submit a certificate of legal capacity to contract marriage, issued by their respective diplomatic or consular officials.

Stateless persons or refugees from other countries shall, in lieu of the certificate of legal capacity herein required, submit an affidavit stating the circumstances showing such capacity to contract marriage. (66a)

Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 3637 and 38. (17a)

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law. (As amended by Executive Order 227)” (ibid)

Article IV, section 4 of the Constitution of the Republic of the Philippines states:

“Citizens of the Philippines who marry aliens shall retain their citizenship, unless by their act or omission they are deemed, under the law, to have renounced it.”
(Philippine National Government (2 February 1987) *Constitution of the Republic of the Philippines*)

A fact sheet *Marriage in the Philippines* from the US Department of State Bureau of Consular Affairs states:

“Any foreigner who wishes to marry in the Philippines is required by the Philippine Government to obtain from his/her Embassy an "Affidavit in Lieu of a Certificate of Legal Capacity to Marry" before filing an application for a marriage license. A citizen of the United States may execute the affidavit at the American Embassy in Manila. The American Embassy in Manila is located at 1201 Roxas Boulevard, Manila, the telephone number is (63) (2) 521-7116, and the fax number is (63) (2) 522-4361. The American needs to present his/her U.S. passport and proof of the termination of any prior marriage(s) (court certified copies of divorce degrees or registrar certified copies of death certificates), if applicable. There is a service fee of \$30.00 for the affidavit.”
(Bureau of Consular Affairs, U.S. Department of State (No date) *Marriage in the Philippines*)

A document on the website of the Australian Embassy in the Philippines entitled “*Marriage of Australians in the Philippines*” states:

“This information is provided to assist you to complete the necessary formalities to ensure that your marriage is legally recognised under both Philippine and Australian law.

For a foreigner to legally marry under Philippine law, two documents are required:

CERTIFICATE OF NO IMPEDIMENT (CNI) also known as Certificate of Legal Capacity

MARRIAGE LICENCE

NOTE: Philippine law requires the CNI to be issued by the Embassy of the applicant's country of nationality in the Philippines. Documents issued in Australia or other countries are not acceptable to the Philippine authorities.

The Certificate of No Impediment (CNI) to Marriage, is not a requirement of Australian law. This is issued at the request of overseas countries seeking to ensure that a marriage involving Australian citizens, celebrated in that country, will also be recognised as a valid marriage by the Australian authorities.” (Australian Embassy the Philippines (No Date) *Marriage of Australians in the Philippines*)

The Embassy of the United States Manila in a document entitled *Getting Married in the Philippines* under the heading “Certificate of Legal Capacity to Contract Marriage” states:

“Any foreigner who wishes to marry in the Philippines is required by the Philippine Government to obtain from his/her Embassy a "Certificate of Legal Capacity to Contract Marriage" before filing an application for a marriage license. This certification affirms that there are no legal impediments to the foreigner marrying a Filipino (i.e, that the foreigner is already married to someone else). Unlike the Philippines, the U.S. Government does not keep a central statistical registry for births, marriages and deaths and cannot verify this information. Instead, the Philippine Government accepts an "Affidavit in Lieu of a Certificate of Legal Capacity to Contract Marriage." Americans may execute this affidavit at the American Embassy in Manila or the U.S. Consular Agency in Cebu. Personal appearances of the American citizen applicant cannot be waived, but the fiancé (e) need not be present. Philippine authorities will not accept any substitute document initiated in the United States.” (Embassy of the United States Manila (Undated) *Getting Married in the Philippines*)

Under the heading “The Marriage Application Process” the document goes on to state that

“Once an American citizen has obtained from the Embassy an Affidavit in Lieu of a Certificate of Legal Capacity to Marry, he/she can file an application for a marriage license at the office of the Philippine Civil Registrar in the town or city where one of the parties is a resident. The license is a requirement for either a civil or church wedding in the Philippines.

The U.S. citizen applicant will need to present:

the Affidavit in Lieu of a Certificate of Legal Capacity to Marry;

divorce decree(s) or death certificate(s) required to verify civil status and capacity to marry;

U.S. passport;

documentation regarding paternal consent or advice, if applicable.

A judge, a minister or any other person authorized by the Government of the Philippines can perform the marriage. Marriage applicants aged 18 to 21 must have written parental consent. Applicants aged 22 to 24 must have received parental advice. Philippine law prohibits the marriage of individuals under the age of 18.

Philippine law prescribes a ten-day waiting period from the filing of the application to the issuance of the marriage license. The license is valid for 120 days and may be used anywhere in the Philippines.” (Ibid)

Under the heading “Church Wedding Requirements” the document states:

“Note: A Catholic religious ceremony may be performed even without a civil ceremony and the marriage will still be considered legal in the Philippines. Other non-Catholic churches may require documents and/or seminars not specified below. To be sure, inquire with the church in which you plan to be married. The process below

describes the general procedures for arranging a Catholic wedding in the Philippines. However, the policies and procedures of individual churches may vary.” (Ibid)

References:

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