

Legal issues and family matters



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Adultery, concubinage, psychological violence and marital infidelity

Adultery cannot be committed by the husband; it is a crime committed by the wife and her paramour

The Revised Penal Code defines “adultery” in Article 333 as follows: *“Adultery is committed by any married woman who shall have sexual intercourse with a man not her husband and by the man who has carnal knowledge of her knowing her to be married, even if the marriage be subsequently declared void. Adultery shall be punished by prison correccional in its medium and maximum periods.”*

The penalty for adultery is from two years, four months and one day up to twelve years.

What is concubinage?

On the other hand, the Revised Penal Code defines and penalizes “concubinage” in Article 334 as follows: *“Any husband who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place, shall be punished by prison correccional in its minimum and medium periods.”*

The penalty of six months and one day (minimum) up to four years and two months

(maximum). The penalty for the concubine is destierro (exile)

Inequalities in the law and discrimination against women

It is clear that the provisions of the Revised Penal Code are stacked against the woman. If she commits even just one case of adultery, she, along with the paramour, can be immediately charged criminally. But the husband who commits numerous acts of marital infidelity cannot be sued by his wife for adultery (since under Article 333, adultery is a crime committed by the wife and her paramour). The philandering husband must be sued under Article 334 for concubinage. The problem however is, concubinage is much more difficult to prove in court.

Psychological violence under RA 9262, instead of concubinage

Republic Act 9262 or the “Anti-Violence Against Women and their Children Act of 2004” has now come to the rescue of women. Philandering husbands can now be charged criminally even for just ONE incident of marital infidelity under the “psychological violence” provision of RA 9262.

RA 9262 defines psychological violence as *“acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking,*

damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.”

The penalty for “psychological violence” is a minimum of six years up to twelve years of imprisonment. The maximum penalty is imposed if the violence is committed by the intimate partner against the woman when she is pregnant or in the presence of the common children.

Pending legislation on marital infidelity

Sen. Richard Gordon and Cong. Joel Villanueva have sponsored bills which seek to eliminate the discrimination against women in the Revised Penal Code. Sen. Gordon, speaking of Senate Bill Nos. 1362 and 1363, said:

The imposable penalty for adultery, which is from 2 years, 4 months, and 1 day up to 12 years, is also much higher than concubinage, which is only from 6 months and 1 day to 4 years and 2 months.

Senate Bill Nos. 1362 and 1363 seek to retain only one of these crimes and repeal the other. The retained crime of either adultery or concubinage will then

become marital infidelity that will be made applicable to both husband and wife. This legislative measure implements the State policy under the Constitution on the fundamental equality before the law of women and men.

On the other hand, Cong. Villanueva’s HB 5729 passed by Congress last December 2006, is “*an act repealing the law on adultery and concubinage and defining in lieu thereof the crime of marital infidelity.*”

Similar to Gordon’s bill, HB 5729 seeks to replace the crimes of adultery and concubinage with a single crime that will be defined as “marital infidelity” and thus totally correcting the disparity in the treatment of cases of a husband or a wife in committing the crimes of concubinage or adultery respectively.

Further readings from my Salt and Light blog:

“Surviving Marital Infidelity”

<http://-salt-and-light-.blogspot.com/2006/01/surviving-marital-infidelity.html>

“Marital infidelity: causes, consequences and conclusions”

<http://-salt-and-light-.blogspot.com/2006/01/marital-infidelity-causes-consequences.html>

“Sad Movies Always Make Me Cry”

<http://-salt-and-light-.blogspot.com/2006/02/sad-movies-always-make-me-cry.html>

How to be saved and go to heaven

Accept that you are a sinner and that your good works, ethical conduct or religion cannot save you. Romans 3:10, Romans 3:23

Believe on the Lord Jesus Christ that He alone can save you. Romans 6:23, Romans 10:13, Acts 16:31

Confess and repent of your sins. Luke 13:3, Isaiah 1:18

Delay not in receiving Jesus Christ into your heart. 2 Corinthians 6:2, Proverbs 27:1

Pray and ask the Lord to save you now: “Dear Lord, I believe that Christ died and shed His precious blood to save my soul. Be merciful to me a sinner, forgive my sins and save me in Jesus’ name. Lord Jesus, I now accept you as my Savior. Amen.”

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