

Immigration and Refugee Board of Canada

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> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

30 June 2017

PHL105832.E

Philippines: Information on adultery laws, including enforcement (2014-June 2017)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

Articles 333 and 334 of *The Revised Penal Code* provide the following:

Art. 333. Who are guilty of adultery. — 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.

If the person guilty of adultery committed this offense while being abandoned without justification by the offended spouse, the penalty next lower in degree than that provided in the next preceding paragraph shall be imposed.

Art. 334. Concubinage. — 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 concubine shall suffer the penalty of destierro. (Philippines 1930)

According to a November 2014 article by Agence France-Presse (AFP), the minimum sentence for adultery and concubinage is 6 months in prison (AFP 30 Nov. 2014). A policy brief regarding the "rationale for repealing" Articles 333 and 334, written by the Philippine Commission on Women (PCW), the "primary policy-making and coordinating body on women and gender equality concerns" (Philippines n.d.a), states that the maximum penalty for adultery "for both the guilty wife and her paramour" is six years, and "four years and 1 day" for concubinage, "while his concubine is given a separate penalty which is 'destierro' or banishment and not imprisonment" (Philippines [2016], 1). Article 87 of *The Revised Penal Code* provides the following:

Art. 87. Destierro. — Any person sentenced to destierro shall not be permitted to enter the place or places designated in the sentence, nor within the radius therein specified, which shall be not more than 250 and not less than 25 kilometers from the place designated. (Philippines 1930)

Sources state that bills have been filed to change *The Revised Penal Code* regarding adultery and concubinage (UN 2 Mar. 2015, para. 17; Philippines [2016], 3). The UN's CEDAW report, *Consideration of Reports Submitted by State Parties Under Article 18 of the Convention*, describes the bills as seeking to "remove the distinction of the crimes of concubinage and adultery, that both be classified as crimes of sexual infidelity and must be equally penalized with *prison correccional*" (UN 2 Mar. 2015, para. 17, emphasis in the

original). The PCW policy brief explains that a "higher burden" is placed upon "women/wives" than "men/husbands," as for adultery the

husband must only prove that his wife had sexual intercourse with a man other than him. For concubinage, the wife has to prove first that her husband has committed either one or all of the following: had kept a mistress in the conjugal dwelling; had sexual intercourse under scandalous circumstances; and/or had lived together with his mistress in any other place. (Philippines [2016], 1)

According to information provided on the website of the Philippines House of Representatives, a bill to decriminalize adultery and concubinage, amending articles 333 and 334 of the *Revised Penal Code*, has been pending "with the Committee on [Revision of Laws] since 2016-07-26" (Philippines n.d.b).

2. Enforcement

Article 344 of *The Revised Penal Code* provides the following:

Art. 344. Prosecution of the crimes of adultery, concubinage, seduction, abduction, rape and acts of lasciviousness. — The crimes of adultery and concubinage shall not be prosecuted except upon a complaint filed by the offended spouse.

The offended party cannot institute criminal prosecution without including both the guilty parties, if they are both alive, nor, in any case, if he shall have consented or pardoned the offenders.

...

(Philippines 1930)

The November 2014 article by AFP, citing Justice Secretary Leila De Lima, reports that the law on adultery is "largely un-enforced and [the Philippines] is a country where many powerful men flaunt their mistresses" (AFP 30 Nov. 2014). An explanatory note presented to the House of Representatives of Philippines by the Gabriela Women's Party, "an offshoot of the biggest alliance of women's organizations in the Philippines" (Gabriela Women's Party n.d.), in the context of the introduction of "an act decriminalizing adultery and concubinage," provides the following:

Articles 333 and 334 [of the *Revised Penal Code*] are often resorted to only as 'bargaining suits' to get the other party in a nullity petition to 'cooperate' or to give in[,] in support negotiations. These suits, while pursued in the initial stages, are often withdrawn or dismissed. Worse, separated or abandoned wives, who have no remedy under the law in the absence of a divorce law, are always under a constant threat of suit from their estranged husbands. They are blackmailed by their estranged husbands through Article 333 of the RPC [*Revised Penal Code*] and while they also have a ground to file under Article 334, they face the difficulty of proving the crime due to the inherent difficulty in the standards set by the law. In many cases, women who are faced by these threats are forced to forego legitimate custodial claims of their children while some are forced to give up their claims over conjugal properties, assets and the like. (Gabriela Women's Party 30 June 2016)

In a 2014 article, *The Freeman*, Cebu's "oldest English-language newspaper" (Philstar n.d.), reports that "a man was arrested and is facing charges after he was caught in the act of cheating on his wife," and further states that the wife "sought the help of the Mandaue City Police," returning to her home with an officer (*The Freeman* 10 Mar. 2014). In a 2015 article, the same source reports that a woman was arrested "after she was caught by her husband and the police in the act of having sexual intercourse with another man in the couple's house in Barangay Lamesa, Balamban town" (*The Freeman* 10 Sept. 2015). On 7 June 2017, SunStar, a "network of community newspapers" from 12 major cities in the Philippines (SunStar n.d.), reports that charges were filed with the prosecutor's office in Zamboanga City against an Army Private "'James'" for concubinage and against "'Claire,'" an employee of the City Government, for adultery, after "'Claire's' husband... sought police assistance" (SunStar 7 June 2017). Further information on the enforcement of Articles 333 and 334, including other cases of arrests, statistics regarding prosecution rates, and/or length of sentences, could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Law office in Makati City; Philippines – Department of Justice, Philippine Commission on Women; United Solo Parents of the Philippines.

Internet sites, including: eoi.net; Factiva; *The Manila Times*; Philippines – Department of Justice, Philippine National Police, Supreme Court; *Today*; United Nations – Refworld; United States – Department of State.

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