

### 1987 Constitution

Article II

Article III

Article XV



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### 1987 Constitution (cont)

**Section 12.** The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.

**Section 14.** The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

**Section 1.** No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

**Section 1.** The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.

**Section 2.** Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

**Section 3.** The State shall defend:

- (1) The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;
- (2) 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;
- (3) The right of the family to a family living wage and income; and
- (4) The right of families or family associations to participate in the planning and implementation of policies and programs that affect them.

### REPUBLIC ACT NO. 386

ARTICLE 1. This Act shall be known as the "Civil Code of the Philippines." (n)

ARTICLE 2. Laws shall take effect after fifteen days following the completion of their publication either in the Official Gazette or in a newspaper of general circulation in the Philippines, unless it is otherwise provided.

ARTICLE 3. Ignorance of the law excuses no one from compliance therewith. (2)

ARTICLE 4. Laws shall have no retroactive effect, unless the contrary is provided. (3)

ARTICLE 5. Acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity. (4a)

ARTICLE 6. Rights may be waived, unless the waiver is contrary to law, public order, public policy, morals, or good customs, or prejudicial to a third person with a right recognized by law. (4a)

ARTICLE 7. Laws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.

When the courts declare a law to be inconsistent with the Constitution, the former shall be void and the latter shall govern.

Administrative or executive acts, orders and regulations shall be valid only when they are not contrary to the laws or the Constitution. (5a)

ARTICLE 8. Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines. (n)

ARTICLE 9. No judge or court shall decline to render judgment by reason of the silence, obscurity or insufficiency of the laws. (6)

ARTICLE 10. In case of doubt in the interpretation or application of laws, it is presumed that the lawmaking body intended right and justice to prevail. (n)

ARTICLE 11. Customs which are contrary to law, public order or public policy shall not be countenanced. (n)

ARTICLE 12. A custom must be proved as a fact, according to the rules of evidence. (n)

ARTICLE 13. When the laws speak of years, months, days or nights, it shall be understood that years are of three hundred sixty-five days each; months, of thirty days; days, of twenty-four hours; and nights from sunset to sunrise.

If months are designated by their name, they shall be computed by the number of days which they respectively have.

In computing a period, the first day shall be excluded, and the last day included. (7a)

ARTICLE 14. Penal laws and those of public security and safety shall be obligatory upon all who live or sojourn in Philippine territory, subject to the principles of public international law and to treaty stipulations. (8a)

ARTICLE 15. Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad. (9a)

ARTICLE 16. Real property as well as personal property is subject to the law of the country where it is situated.

However, intestate and testamentary successions, both with respect to the order of succession and to the amount of successional rights and to the intrinsic validity of testamentary provisions, shall be regulated by the national law of the person whose succession is under consideration, whatever may be the nature of the property and regardless of the country wherein said property may be found. (10a)

ARTICLE 17. The forms and solemnities of contracts, wills, and other public instruments shall be governed by the laws of the country in which they are executed.

When the acts referred to are executed before the diplomatic or consular officials of the Republic of the Philippines in a foreign country, the solemnities established by Philippine laws shall be observed in their execution.

Prohibitive laws concerning persons, their acts or property, and those which have for their object public order, public policy and good customs shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country. (11a)

ARTICLE 18. In matters which are governed by the Code of Commerce and special laws, their deficiency shall be supplied by the provisions of this Code. (16a)

## MINORITY

Republic Act No. 6809



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MINORITY (cont)

AN ACT LOWERING THE AGE OF MAJORITY FROM TWENTY-ONE TO EIGHTEEN YEARS, AMENDING FOR THE PURPOSE EXECUTIVE ORDER NUMBERED TWO HUNDRED NINE, AND FOR OTHER PURPOSES



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EFFECT ON CONTRACTS



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MINORITY (cont)

ARTICLE 1327 NCC. The following cannot give consent to a contract:



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MINORITY (cont)

(1) Unemancipated minors;



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### MINORITY (cont)

(2) Insane or demented persons, and deaf-mutes who do not know how to write. (1263a)



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### MINORITY (cont)

**ARTICLE 1390 NCC.** The following contracts are voidable or annulable, even though there may have been no damage to the contracting parties:



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### MINORITY (cont)

(1) Those where one of the parties is incapable of giving consent to a contract;



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### MINORITY (cont)

**ARTICLE 1397 NCC.** The action for the annulment of contracts may be instituted by all who are thereby obliged principally or subsidiarily. However, persons who are capable cannot allege the incapacity of those with whom they contracted; nor can those who exerted intimidation, violence, or undue influence, or employed fraud, or caused mistake base their action upon these flaws of the contract. (1302a)



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### MINORITY (cont)

**ARTICLE 1398 NCC** An obligation having been annulled, the contracting parties shall restore to each other the things which have been the subject matter of the contract, with their fruits, and the price with its interest, except in cases provided by law.



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### MINORITY (cont)

In obligations to render service, the value thereof shall be the basis for damages. (1303a)



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### MINORITY (cont)

**ARTICLE 1399 NCC.** When the defect of the contract consists in the incapacity of one of the parties, the incapacitated person is not obliged to make any restitution except insofar as he has been benefited by the thing or price received by him. (1304)



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MINORITY (cont)

ARTICLE 1403 NCC. The following contracts are unenforceable, unless they are ratified:



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### MINORITY (cont)

(3) Those where both parties are incapable of giving consent to a contract.



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### MINORITY (cont)

**ARTICLE 1426.NCC** When a minor between eighteen and twenty-one years of age who has entered into a contract without the consent of the parent or guardian, after the annulment of the contract voluntarily returns the whole thing or price received, notwithstanding the fact that he has not been benefited thereby, there is no right to demand the thing or price thus returned.



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### MINORITY (cont)

**ARTICLE 1427.NCC** When a minor between eighteen and twenty-one years of age, who has entered into a contract without the consent of the parent or guardian, voluntarily pays a sum of money or delivers a fungible thing in fulfillment of the obligation, there shall be no right to recover the same from the obligee who has spent or consumed it in good faith. (1160a)



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### MINORITY (cont)

**ARTICLE 1489 NCC.** All persons who are authorized in this Code to obligate themselves, may enter into a contract of sale, saving the modifications contained in the following articles.



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### MINORITY (cont)

Where necessaries are sold and delivered to a minor or other person without capacity to act, he must pay a reasonable price therefor. Necessaries are those referred to in article 290. (1457a)



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EFFECT ON MARRIAGE



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### MINORITY (cont)

**Art. 5. FC** 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)ChanRoblesVirtuala



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MINORITY (cont)

Art. 35.FC The following marriages shall be void from the beginning:



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### MINORITY (cont)

(1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;



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### MINORITY (cont)

(2) Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;



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### MINORITY (cont)

(3) Those solemnized without license, except those covered the preceding Chapter;



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### MINORITY (cont)

(4) Those bigamous or polygamous marriages not failing under Article 41;



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### MINORITY (cont)

(5) Those contracted through mistake of one contracting party as to the identity of the other; and



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### MINORITY (cont)

(6) Those subsequent marriages that are void under Article 53.



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MINORITY (cont)

EFFECT ON CRIMES



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MINORITY (cont)

Art. 12. Circumstances which exempt from criminal liability. — the following are exempt from criminal liability:



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### MINORITY (cont)

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.  
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### MINORITY (cont)

When the imbecile or an insane person has committed an act which the law defines as a felony (delito), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.



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### MINORITY (cont)

2. A person under nine years of age. [chanrobles virtual law library](#)



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### MINORITY (cont)

3. A person over nine years of age and under fifteen, unless he has acted with discernment, in which case, such minor shall be proceeded against in accordance with the provisions of Art. 80 of this Code.



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### MINORITY (cont)

When such minor is adjudged to be criminally irresponsible, the court, in conformably with the provisions of this and the preceding paragraph, shall commit him to the care and custody of his family who shall be charged with his surveillance and education otherwise, he shall be committed to the care of some institution or person mentioned in said Art. 80.



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### MINORITY (cont)

4. Any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it.



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### MINORITY (cont)

5. Any person who act under the compulsion of irresistible force.chanrobles virtual law library



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### MINORITY (cont)

6. Any person who acts under the impulse of an uncontrollable fear of an equal or greater injury.



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### MINORITY (cont)

7. Any person who fails to perform an act required by law, when prevented by some lawful insuperable cause. [chanrobles virtual law library](#)



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MINORITY (cont)

Art. 13. Mitigating circumstances. — The following are mitigating circumstances;



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### MINORITY (cont)

2. That the offender is under eighteen year of age or over seventy years. In the case of the minor, he shall be proceeded against in accordance with the provisions of Art. 80.



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### MINORITY (cont)

**Art. 68.** Penalty to be imposed upon a person under eighteen years of age. — When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraphs next to the last of Article 80 of this Code, the following rules shall be observed:



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### MINORITY (cont)

1. Upon a person under fifteen but over nine years of age, who is not exempted from liability by reason of the court having declared that he acted with discernment, a discretionary penalty shall be imposed, but always lower by two degrees at least than that prescribed by law for the crime which he committed.



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### MINORITY (cont)

2. Upon a person over fifteen and under eighteen years of age the penalty next lower than that prescribed by law shall be imposed, but always in the proper period.

\*\*Art.



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MINORITY (cont)

80.



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MINORITY (cont)

\*\* Suspension of sentence of minor delinquents.



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### MINORITY (cont)

— Whenever a minor of either sex, under sixteen years of age at the date of the commission of a grave or less grave felony, is accused thereof, the court, after hearing the evidence in the proper proceedings, instead of pronouncing judgment of conviction, shall suspend all further proceedings and shall commit such minor to the custody or care of a public or private, benevolent or charitable institution, established under the law of the care, correction or education of orphaned, homeless, defective, and delinquent children, or to the custody or care of any other responsible person in any other place subject to visitation and supervision by the Director of Public Welfare or any of his agents or representatives, if there be any, or otherwise by the superintendent of public schools or his representatives, subject to such conditions as are prescribed hereinbelow until such minor shall have reached his majority age or for such less period as the court may deem proper..



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### MINORITY (cont)

The court, in committing said minor as provided above, shall take into consideration the religion of such minor, his parents or next of kin, in order to avoid his commitment to any private institution not under the control and supervision of the religious sect or denomination to which they belong.



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### MINORITY (cont)

The Director of Public Welfare or his duly authorized representatives or agents, the superintendent of public schools or his representatives, or the person to whose custody or care the minor has been committed, shall submit to the court every four months and as often as required in special cases, a written report on the good or bad conduct of said minor and the moral and intellectual progress made by him.

The suspension of the proceedings against a minor may be extended or shortened by the court on the recommendation of the Director of Public Welfare or his authorized representative or agents, or the superintendent of public schools or his representatives, according as to whether the conduct of such minor has been good or not and whether he has complied with the conditions imposed upon him, or not.



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MINORITY (cont)

The provisions of the first paragraph of this article shall not, however, be affected by those contained herein..



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### MINORITY (cont)

If the minor has been committed to the custody or care of any of the institutions mentioned in the first paragraph of this article, with the approval of the Director of Public Welfare and subject to such conditions as this official in accordance with law may deem proper to impose, such minor may be allowed to stay elsewhere under the care of a responsible person.



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### MINORITY (cont)

If the minor has behaved properly and has complied with the conditions imposed upon him during his confinement, in accordance with the provisions of this article, he shall be returned to the court in order that the same may order his final release.



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### MINORITY (cont)

In case the minor fails to behave properly or to comply with the regulations of the institution to which he has been committed or with the conditions imposed upon him when he was committed to the care of a responsible person, or in case he should be found incorrigible or his continued stay in such institution should be inadvisable, he shall be returned to the court in order that the same may render the judgment corresponding to the crime committed by him.

The expenses for the maintenance of a minor delinquent confined in the institution to which he has been committed, shall be borne totally or partially by his parents or relatives or those persons liable to support him, if they are able to do so, in the discretion of the court; Provided, That in case his parents or relatives or those persons liable to support him have not been ordered to pay said expenses or are found indigent and cannot pay said expenses, the municipality in which the offense was committed shall pay one-third of said expenses; the province to which the municipality belongs shall pay one-third; and the remaining one-third shall be borne by the National Government: Provided, however, That whenever the Secretary of Finance certifies that a municipality is not able to pay its share in the expenses above mentioned, such share which is not paid by said municipality shall be borne by the National Government.



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### MINORITY (cont)

Chartered cities shall pay two-thirds of said expenses; and in case a chartered city cannot pay said expenses, the internal revenue allotments which may be due to said city shall be withheld and applied in settlement of said indebtedness in accordance with section five hundred and eighty-eight of the Administrative Code..



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### MINORITY (cont)

**Art. 101.** Rules regarding civil liability in certain cases. — The exemption from criminal liability established in subdivisions 1, 2, 3, 5 and 6 of Article 12 and in subdivision 4 of Article 11 of this Code does not include exemption from civil liability, which shall be enforced subject to the following rules:



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### MINORITY (cont)

First. In cases of subdivisions 1, 2, and 3 of Article 12, the civil liability for acts committed by an imbecile or insane person, and by a person under nine years of age, or by one over nine but under fifteen years of age, who has acted without discernment, shall devolve upon those having such person under their legal authority or control, unless it appears that there was no fault or negligence on their part.



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### MINORITY (cont)

Should there be no person having such insane, imbecile or minor under his authority, legal guardianship or control, or if such person be insolvent, said insane, imbecile, or minor shall respond with their own property, excepting property exempt from execution, in accordance with the civil law.



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### MINORITY (cont)

Second. In cases falling within subdivision 4 of Article 11, the persons for whose benefit the harm has been prevented shall be civilly liable in proportion to the benefit which they may have received.



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MINORITY (cont)

The courts shall determine, in sound discretion, the proportionate amount for which each one shall be liable.



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### MINORITY (cont)

When the respective shares cannot be equitably determined, even approximately, or when the liability also attaches to the Government, or to the majority of the inhabitants of the town, and, in all events, whenever the damages have been caused with the consent of the authorities or their agents, indemnification shall be made in the manner prescribed by special laws or regulations.



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### MINORITY (cont)

Third. In cases falling within subdivisions 5 and 6 of Article 12, the persons using violence or causing the fears shall be primarily liable and secondarily, or, if there be no such persons, those doing the act shall be liable, saving always to the latter that part of their property exempt from execution.



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### MINORITY (cont)

**REPUBLIC ACT NO. 9344.** AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE AND WELFARE SYSTEM, CREATING THE JUVENILE JUSTICE AND WELFARE COUNCIL UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.



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### MINORITY (cont)

#### EFFECT ON QUAS-DELICT

Effect on Crimes – Arts 12, 13(2), 68, 80, 101 Revised Penal Code; R.A. 9344 (Juvenile Justice System Act) as amended by R.A. 10630

Effect on Quasi-Delicts – Arts 2180-2182 NCC

#### CIVIL PERSONALITY

##### Persons

#### CIVIL PERSONALITY (cont)

- any being, natural or artificial, capable of possessing legal rights and obligations



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### CIVIL PERSONALITY (cont)

#### Two Kinds of Persons



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### CIVIL PERSONALITY (cont)

1. Natural Persons - human beings created by God through the intervention of parents.

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### CIVIL PERSONALITY (cont)

2. Juridical Persons - those created by law.

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### CIVIL PERSONALITY (cont)

*Article 37. JURIDICAL CAPACITY, WHICH IS THE FITNESS TO BE THE SUBJECT OF LEGAL RELATIONS, IS INHERENT IN EVERY NATURAL PERSON AND IS LOST ONLY THROUGH DEATH. CAPACITY TO ACT, WHICH IS THE POWER TO DO ACTS WITH LEGAL EFFECT, IS ACQUIRED AND MAY BE LOST.*

### CIVIL PERSONALITY (cont)

#### Juridical Capacity

### CIVIL PERSONALITY (cont)

- the fitness to be the subject of legal relations.



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### CIVIL PERSONALITY (cont)

#### Capacity to Act

### CIVIL PERSONALITY (cont)

- the power to do acts with legal effect.

### CIVIL PERSONALITY (cont)

**Difference between "Juridical Capacity" and "Capacity to Act"**



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### CIVIL PERSONALITY (cont)

#### Juridical Capacity (capacidad juridica)



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### CIVIL PERSONALITY (cont)

#### (a) Passive

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### CIVIL PERSONALITY (cont)

#### (b) Inherent

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### CIVIL PERSONALITY (cont)

(c) Lost only through death causes



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### CIVIL PERSONALITY (cont)

(d) Can exist without capacity to act

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### CIVIL PERSONALITY (cont)

**Capacity to Act (capacidad de obrar)**

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### CIVIL PERSONALITY (cont)

(a) Active

### CIVIL PERSONALITY (cont)

(b) Merely Acquired

### CIVIL PERSONALITY (cont)

(c) Lost through death and may be restricted by other



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### CIVIL PERSONALITY (cont)

(d) Exists always with juridical capacity

### CIVIL PERSONALITY (cont)

**Complete Civil Capacity** -the union of the two kinds of capacity.

### CIVIL PERSONALITY (cont)

*Article 38. MINORITY, INSANITY OR IMBECILITY, THE STATE OF BEING A DEAF-MUTE, PRODICALITY AND CIVIL INTERDICTION ARE MERE RESTRICTIONS ON CAPACITY TO ACT, AND DO NOT EXEMPT THE INCAPACITATED PERSON FROM CERTAIN OBLIGATIONS, AS WHEN THE LATTER ARISE FROM HIS ACTS OR FROM PROPERTY RELATIONS, SUCH AS EASEMENTS.*



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### CIVIL PERSONALITY (cont)

**Prodigality** - the state of squandering money or property with a morbid desire to prejudice the heirs of a person.



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### CIVIL PERSONALITY (cont)

**Civil Interdiction** - the deprivation by the court of a person's right.

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### CIVIL PERSONALITY (cont)

**Minority**- a minor has a capacity to act but his capacity is restricted.

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### CIVIL PERSONALITY (cont)

#### Insanity or Imbecility

### CIVIL PERSONALITY (cont)

- Insanity is a condition in which a person's mind is sick.

### CIVIL PERSONALITY (cont)

- Imbecility is feeble-mindedness, or a condition in which a person thinks like a small child.



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### CIVIL PERSONALITY (cont)

**Monomania** - insanity in one thing is not necessarily insanity in other things.

### CIVIL PERSONALITY (cont)

*Note: If a person is under guardianship because of insanity, he is of course presumed insane if he should enter into a contract. But this presumption is only prima facie or rebuttable. If it can be shown that he was acting during a lucid interval, the contract will be considered valid.*

### CIVIL PERSONALITY (cont)

**State of Being a Deaf-Mute**



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### CIVIL PERSONALITY (cont)

- a deaf-mute may either be sane or insane.

### CIVIL PERSONALITY (cont)

- he may make a will, but cannot be a competent witness to a notarial will.

### CIVIL PERSONALITY (cont)

**Civil Interdiction**



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### CIVIL PERSONALITY (cont)

- the restrictions do not extinguish the capacity to act. They merely restrict or limit the same.

### CIVIL PERSONALITY (cont)

- the incapacitated person is not exempt from certain obligations arising from his acts.

### CIVIL PERSONALITY (cont)

***Article 39. THE FOLLOWING CIRCUMSTANCES, AMOTH OTHER, MODIFY OR LIMIT CAPACITY TO ACT: AGE, INSANITY, IMBECILITY, THE STATE OF BEING A DEAF-MUTE, PENALTY, PRODIGALITY, FAMILY RELATIONS, ALIENAGE, ABSENCE, INSOLVENCY AND TRUSTEESHIP. THE CONSEQUENCES OF THESE CIRCUMSTANCES ARE GOVERNED IN THIS CODE, OTHER CODES, THE RULES OF COURT, AND IN SPECIAL LAWS. CAPACITY TO ACT IS NOT LIMITED ON ACCOUNT OF RELIGIOUS BELIEF OR POLITICAL OPINION.***



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### CIVIL PERSONALITY (cont)

***A MARRIED WOMAN, TWENTY-ONE YEARS OF AGE OR OVER, IS QUALIFIED FOR ALL ACTS OF CIVIL LIFE, EXCEPT IN CASES SPECIFIED BY LAW.***

### CIVIL PERSONALITY (cont)

According to the Code Commission, *Article 39 is broader than Article 38*. For while **Article 38 refers to restrictions on capacity to act, Article 39 includes not only the restrictions or limitations but also those circumstances that modify capacity to act.\***

### CIVIL PERSONALITY (cont)

Example: According to the Code Commission, a father has generally full civil capacity and is not as such restricted under Article 38, however, precisely because he is a father, his capacity to alienate his property is modified in the sense that he cannot impair the legitime of his compulsory heirs.



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### CIVIL PERSONALITY (cont)

**Family Relations** - a man cannot marry his mother, or sister, or even a first cousin. The fact that a man is the father of a family creates an obligation to give support to his family and to give his children their legitime.

### CIVIL PERSONALITY (cont)

**Alienage**

### CIVIL PERSONALITY (cont)

- an alien cannot generally acquire private or public agricultural lands, including those residential in nature, except thru hereditary succession.



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### CIVIL PERSONALITY (cont)

- alien corporations cannot under the law acquire ownership over said lands, even for a limited period of time.

### CIVIL PERSONALITY (cont)

- an alien cannot vote or be voted for a public office.

### CIVIL PERSONALITY (cont)

- a Filipino who married to a foreigner and who acquires his citizenship cannot acquire land in the Philippines.



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### CIVIL PERSONALITY (cont)

#### Absence

### CIVIL PERSONALITY (cont)

- the fact that one has been absent for several years and his whereabouts cannot be determined, subjects his property to administration by order of the court although his capacity to act is not limited.

### CIVIL PERSONALITY (cont)

#### Married Woman



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### CIVIL PERSONALITY (cont)

- the fact that a woman is a wife, modifies her capacity to dispose of the conjugal property or to bring an action, though her capacity to act is not limited in the sense that a minor's capacity is limited.

### State of Being a Deaf-Mute

**ARTICLE 1327.** The following cannot give consent to a contract:

### State of Being a Deaf-Mute (cont)

(1) Unemancipated minors;



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### State of Being a Deaf-Mute (cont)

(2) Insane or demented persons, and deaf-mutes who do not know how to write.  
(1263a)

### State of Being a Deaf-Mute (cont)

**ARTICLE 807.** If the testator be deaf, or a deaf-mute, he must personally read the will, if able to do so; otherwise, he shall designate two persons to read it and communicate to him, in some practicable manner, the contents thereof. (n)

### State of Being a Deaf-Mute (cont)

**ARTICLE 820.** Any person of sound mind and of the age of eighteen years or more, and not blind, deaf or dumb, and able to read and write, may be a witness to the execution of a will mentioned in article 805 of this Code. (n)



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### Absence

**ARTICLE 390 of NCC.** After an absence of seven years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all purposes, except for those of succession.

### Absence (cont)

The absentee shall not be presumed dead for the purpose of opening his succession till after an absence of ten years. If he disappeared after the age of seventy-five years, an absence of five years shall be sufficient in order that his succession may be opened. (n)

### Absence (cont)

**ARTICLE 391 of NCC.** The following shall be presumed dead for all purposes, including the division of the estate among the heirs: otiteo



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### Absence (cont)

(1) A person on board a vessel lost during a sea voyage, or an aeroplane which is missing, who has not been heard of for four years since the loss of the vessel or aeroplane;

### Absence (cont)

(2) A person in the armed forces who has taken part in war, and has been missing for four years;

### Absence (cont)

(3) A person who has been in danger of death under other circumstances and his existence has not been known for four years. (n)

**Article 41 of the Family Code** A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead.



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### Absence (cont)

In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient..

### Absence (cont)

For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

### NATURAL PERSONS

***Article 40. BIRTH DETERMINES PERSONALITY; BUT THE CONCEIVED CHILD SHALL BE CONSIDERED BORN FOR ALL PURPOSES THAT ARE FAVORABLE TO IT, PROVIDED IT BE BORN LATER WITH THE CONDITIONS SPECIFIED IN THE FOLLOWING ARTICLE.***



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### NATURAL PERSONS (cont)

#### Beginning of Personality

### NATURAL PERSONS (cont)

- personality does not begin at birth; it begins at conception. This personality at conception is called presumptive personality. It is, of course, essential that birth should occur later, otherwise, the fetus will be considered as never having possessed legal personality.

### NATURAL PERSONS (cont)

- personality (actual personality) really commences at birth.



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### NATURAL PERSONS (cont)

#### When No Registration Will Be Made

### NATURAL PERSONS (cont)

- if the conditions specified in Article 41 are not complied with, the birth and the death of the child will not be recorded in the Civil Registry.

### NATURAL PERSONS (cont)

#### Rule in Case of Abortive Infant



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### NATURAL PERSONS (cont)

- if a physician operates on a pregnant woman and succeeds in aborting the fetus, the parents would normally be entitled to only moral damages (distress, disappointment of parental expectation) and to exemplary damages, if warranted, but NOT to actual damages (injury to rights of the deceased, his right to life and physical integrity).

### NATURAL PERSONS (cont)

- the death of a person, does NOT cover the case of an unborn fetus, since this is not endowed with personality.

### NATURAL PERSONS (cont)

**Newborn Screening Act**



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### NATURAL PERSONS (cont)

- "Newborn Screening Act of 2004" otherwise known as RA 9288 - shall ensure that every baby born in the Philippines is offered the opportunity to undergo newborn screening and, thus, be spared from heritable conditions that can lead to mental retardation and death if undetected and untreated.

### NATURAL PERSONS (cont)

- parental or legal guardian's decision to refuse testing on the ground of religious belief shall acknowledge in writing an understanding that refusal for testing places the newborn at risk for undiagnosed heritable conditions. Be it noted that a copy of this refusal documentation shall be made part of the newborn's medical records and refusal shall be indicated in the national newborn screening database.

### NATURAL PERSONS (cont)

- Newborn - means a child from the time of complete delivery to 30 days old.



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### NATURAL PERSONS (cont)

*Article 41. FOR CIVIL PURPOSES, THE FOETUS IS CONSIDERED BORN IF IT IS ALIVE AT THE TIME IT IS COMPLETELY DELIVERED FROM THE MOTHER'S WOMB. HOWEVER, IF THE FOETUS HAD AN INTRA-UTERINE LIFE OF LESS THAN SEVEN MONTHS, IT IS NOT DEEMED BORN IF IT DIES WITHIN TWENTY-FOUR HOURS AFTER ITS COMPLETE DELIVERY FROM THE MATERNAL WOMB.*

### NATURAL PERSONS (cont)

#### Two Kinds of Children

### NATURAL PERSONS (cont)

1. Ordinary - with an intra-uterine life of at least seven months.



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### NATURAL PERSONS (cont)

2. Extraordinary - if the intra-uterine life be less than seven months. (Here the child must have lived for at least 24 hours after its complete delivery from the maternal womb.)

### NATURAL PERSONS (cont)

**Note:** The term "extraordinary" was used instead of "premature" for while a child with an intra-uterine life of eight months is still considered premature, if is for the purpose of the article considered an ordinary child.

### NATURAL PERSONS (cont)

**Article 42. CIVIL PERSONALITY IS EXTINGUISHED BY DEATH.**



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### NATURAL PERSONS (cont)

*THE EFFECT OF DEATH UPON THE RIGHTS AND OBLIGATIONS OF THE DECEASED IS DETERMINABLE BY LAW, BY CONTRACT AND BY WILL.*

### NATURAL PERSONS (cont)

**How Civil Personality is extinguished**

### NATURAL PERSONS (cont)

- Civil personality is extinguished by death.



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### NATURAL PERSONS (cont)

#### Effect of Physical Death



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### NATURAL PERSONS (cont)

- effect of death is determined by:

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### NATURAL PERSONS (cont)

A. Law

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### NATURAL PERSONS (cont)

B. Contract



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### NATURAL PERSONS (cont)

C. Will

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### NATURAL PERSONS (cont)

Is a Person's "Estate" a Person by Itself?

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### NATURAL PERSONS (cont)

- the "estate" of the deceased is a person that may continue the personality of the deceased even after death -- for the purpose of settling debts.

### NATURAL PERSONS (cont)

Example:

### NATURAL PERSONS (cont)

Facts: One of the convicted defendants in a murder case dies while the case was on appeal before the Supreme Court. Will his case be dismissed?



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### NATURAL PERSONS (cont)

Held: His death extinguished his criminal liability, but the proceedings should continue to determine his civil liability (in case it is proved that he had really committed the crime.)

### NATURAL PERSONS (cont)

*Article 43. IF THERE IS A DOUBT, AS BETWEEN TWO OR MORE PERSONS WHO ARE CALLED TO SUCCEED EACH OTHER, AS TO WHICH OF THEM DIED FIRST, WHOEVER ALLEGES THE DEATH OF ONE PRIOR TO THE OTHER, SHALL PROVE THE SAME; IN THE ABSENCE OF PROOF, IT IS PRESUMED THAT THEY DIED AT THE SAME TIME AND THERE SHALL BE NO TRANSMISSION OF RIGHTS FROM ONE TO THE OTHER.*

### NATURAL PERSONS (cont)

**Presumptions on Survivorship under the Revised Rules of Court**



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### NATURAL PERSONS (cont)

- when two persons perish in the same calamity, such as a wreck, battle, or conflagration, and it is not shown who dies first, and there are no particular circumstances from which it can be inferred, the survivorship is presumed from the probabilities resulting from the strength and age of the sexes, according to the following rules:

### NATURAL PERSONS (cont)

A. If both were under the age of fifteen years, the older is presumed to have survived;

### NATURAL PERSONS (cont)

B. If both were above the age of sixty, the younger is presumed to have survived;



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### NATURAL PERSONS (cont)

C. If one be under fifteen and the other above sixty, the former is presumed to have survived;

### NATURAL PERSONS (cont)

D. If both be over fifteen and under sixty, and the sexes be different, the male is presumed to have survived; if the sexes be the same, then the older;

### NATURAL PERSONS (cont)

E. If one be under fifteen or over sixty, and the other between those ages, the latter is presumed to have survived.



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### NATURAL PERSONS (cont)

#### Applicability of the Provision

### NATURAL PERSONS (cont)

- Article 43 applies when the case involves two or more persons who are "called to succeed each other". Example: Father and Son.

### d. Prodigality



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### e. Civil Interdiction

**Art. 34.** Civil interdiction. — Civil interdiction shall deprive the offender during the time of his sentence of the rights of parental authority, or guardianship, either as to the person or property of any ward, of marital authority, of the right to manage his property and of the right to dispose of such property by any act or any conveyance inter vivos. c-hanrobes virtual law library.

### e. Civil Interdiction (cont)

**Art. 79.** For the validity of any marriage settlement executed by a person upon whom a sentence of civil interdiction has been pronounced or who is subject to any other disability, it shall be indispensable for the guardian appointed by a competent court to be made a party thereto.

### Family Relations

**Art. 37.** Marriages between the following are incestuous and void from the beginning, whether relationship between the parties be legitimate or illegitimate:



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### Family Relations (cont)

(1) Between ascendants and descendants of any degree; and

### Family Relations (cont)

(2) Between brothers and sisters, whether of the full or half blood. (81a)ChanRobles-Virtualawlibrary

### Family Relations (cont)

**Art. 38.** The following marriages shall be void from the beginning for reasons of public policy:



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### Family Relations (cont)

(1) Between collateral blood relatives whether legitimate or illegitimate, up to the fourth civil degree;

### Family Relations (cont)

(2) Between step-parents and step-children;

### Family Relations (cont)

(3) Between parents-in-law and children-in-law;



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### Family Relations (cont)

(4) Between the adopting parent and the adopted child;

### Family Relations (cont)

(5) Between the surviving spouse of the adopting parent and the adopted child;

### Family Relations (cont)

(6) Between the surviving spouse of the adopted child and the adopter;



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### Family Relations (cont)

(7) Between an adopted child and a legitimate child of the adopter;

### Family Relations (cont)

(8) Between adopted children of the same adopter; and

### Family Relations (cont)

(9) Between parties where one, with the intention to marry the other, killed that other person's spouse, or his or her own spouse. (82)



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### Family Relations (cont)

**Art. 87.** Every donation or grant of gratuitous advantage, direct or indirect, between the spouses during the marriage shall be void, except moderate gifts which the spouses may give each other on the occasion of any family rejoicing. The prohibition shall also apply to persons living together as husband and wife without a valid marriage.

### Family Relations (cont)

**ARTICLE 1109.** Prescription does not run between husband and wife, even though there be a separation of property agreed upon in the marriage settlements or by judicial decree.

### Family Relations (cont)

Neither does prescription run between parents and children, during the minority or insanity of the latter, and between guardian and ward during the continuance of the guardianship. (n)



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### Family Relations (cont)

**ARTICLE 1490.** The husband and the wife cannot sell property to each other, except:

### Family Relations (cont)

(1) When a separation of property was agreed upon in the marriage settlements; or temuim

### Family Relations (cont)

(2) When there has been a judicial separation of property under article 191. (1458a)



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### JURIDICAL PERSONS

*Article 44. THE FOLLOWING ARE  
JURIDICAL PERSONS:*

### JURIDICAL PERSONS (cont)

*(1) THE STATE AND ITS POLITICAL  
SUBDIVISIONS;*

### JURIDICAL PERSONS (cont)

*(2) OTHER CORPORATIONS, INSTITUTIONS AND ENTITIES FOR PUBLIC INTEREST OR PUPOSE, CREATED BY LAW; THEIR PERSONALITY BEGINS AS SOON AS THEY HAVE BEEN CONSTITUTED ACCORDING TO LAW;*



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### JURIDICAL PERSONS (cont)

*(3) CORPORATIONS, PARTNERSHIPS AND ASSOCIATIONS FOR PRIVATE INTEREST OR PURPOSE TO WHICH THE LAW GRANTS A PERSONALITY, SEPARATE AND DISTINCT FROM THAT OF EACH SHAREHOLDER, PARTNER OR MEMBER.*



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### JURIDICAL PERSONS (cont)

#### Classification of Juridical Persons

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### JURIDICAL PERSONS (cont)

#### A. Private juridical persons

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### JURIDICAL PERSONS (cont)

B. Public juridical persons

### JURIDICAL PERSONS (cont)

**Public Juridical Persons**

### JURIDICAL PERSONS (cont)

A. Public corporations like the province and the city



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### JURIDICAL PERSONS (cont)

B. The state itself



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### JURIDICAL PERSONS (cont)

**Private Juridical Persons**

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### JURIDICAL PERSONS (cont)

A. Private corporations

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### JURIDICAL PERSONS (cont)

B. Partnerships

### JURIDICAL PERSONS (cont)

C. Foundations

### JURIDICAL PERSONS (cont)

**When Personality of Private Juridical Persons Begins**



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### JURIDICAL PERSONS (cont)

- a private corporation begins to exist as a juridical person from the moment a certificate of incorporation is granted to it. The certificate is issued upon filing the articles of incorporation with the Securities and Exchange Commission.

### JURIDICAL PERSONS (cont)

- A partnership, even if not registered is a juridical person, provided that it has been validly constituted. However, a limited partnership to be valid as such, must be registered with the Securities and Exchange Commission.

### JURIDICAL PERSONS (cont)

***Article 45. JURIDICAL PERSONS MENTIONED IN NOS. 1 AND 2 OF THE PRECEDING ARTICLE ARE GOVERNED BY THE LAWS CREATING OR RECOGNIZING THEM.***



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### JURIDICAL PERSONS (cont)

*THE PRIVATE CORPORATIONS ARE REGULATED BY LAWS OF GENERAL APPLICATION ON THE SUBJECT.*

### JURIDICAL PERSONS (cont)

*PARTNERSHIPS AND ASSOCIATIONS FOR PRIVATE INTEREST OR PURPOSE ARE GOVERNED BY THE PROVISIONS OF THIS CODE CONCERNING PARTNERSHIPS.*

### JURIDICAL PERSONS (cont)

**Determination of Nationality of Juridical Persons**



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### JURIDICAL PERSONS (cont)

- the nationality of a corporation is generally determined by the place of its incorporation. So if incorporated in the Philippines, it is a Philippine corporation.

### JURIDICAL PERSONS (cont)

#### Exceptions:

### JURIDICAL PERSONS (cont)

A. For the grant of the rights in the Constitution to the operation of public utilities, and for the acquisition of land and other natural resources, a corporation, even if incorporated here, cannot acquire said rights unless 60% of its capital be Philippine-owned.



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### JURIDICAL PERSONS (cont)

B. During war, we may pierce the veil of corporate identity and go to the very nationality of the controlling stockholders regardless of where the incorporation had been made. Thus a German-controlled corporation, even if incorporated in the Philippines, was considered an enemy corporation during the war for the purpose of freezing its assets.

### JURIDICAL PERSONS (cont)

**Note: Even if a foreign corporation is not doing business in the Philippines, and even if not licensed, it may sue here in our country.**

### JURIDICAL PERSONS (cont)

**Note: There is no general rule or governing principle as to what constitutes "doing" or "engaging in" or "transacting" business in the Philippines.**



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### JURIDICAL PERSONS (cont)

*Article 46. JURIDICAL PERSONS MAY ACQUIRE AND POSSESS PROPERTY OF ALL KINDS, AS WELL AS INCUR OBLIGATIONS AND BRING CIVIL OR CRIMINAL ACTIONS, IN CONFORMITY WITH THE LAWS AND REGULATIONS OF THEIR ORGANIZATION.*



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### JURIDICAL PERSONS (cont)

**Rights of Juridical Persons:**

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### JURIDICAL PERSONS (cont)

A. To acquire and possess property of all kinds.

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### JURIDICAL PERSONS (cont)

B. To incur obligations

### JURIDICAL PERSONS (cont)

C. To bring civil or criminal actions.

### JURIDICAL PERSONS (cont)

**Note:** While a corporation being a juridical person, by itself can be held liable without any personal liability on the part of the stockholders, still said stockholders may be held liable for obligations contracted by the corporation whenever circumstances have shown that the corporate entity is being sued as an alter ego (other self) or business conduit for the sole benefit of the stockholders.



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### JURIDICAL PERSONS (cont)

**Note: The general rule is that a corporation is entitled to use an name, but not in violation of the rights of others.**

### JURIDICAL PERSONS (cont)

**May a Corporation Form a Partnership?**

### JURIDICAL PERSONS (cont)

- NO, because the relationship of trust and confidence which is found in a partnership, is absent in corporations.



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### JURIDICAL PERSONS (cont)

- Corporation can be bound only by the act of its Board of Directors.

### JURIDICAL PERSONS (cont)

#### Capacity to Acquire Lands

### JURIDICAL PERSONS (cont)

- a religious corporation which is not controlled by Filipinos cannot acquire lands, otherwise alien religious landholdings in this country would be revived. But the Roman Catholic Church in the Philippines can acquire lands. This is true because the Catholic Church in any country, lawfully incorporated in said country, is an entity or person separate and distinct from the personality of the Pope or of the Holy See.



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### JURIDICAL PERSONS (cont)

- An American citizen, under the Parity Amendment, can acquire lands in the Philippines, exploit our natural resources, and operate public utilities, only if in his particular state in the United States, Filipinos are granted RECIPROCAL parity rights.

### JURIDICAL PERSONS (cont)

A Non-Existent Corporation Cannot Sue

### JURIDICAL PERSONS (cont)

A Non-Existent Partnership Cannot Sue



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### JURIDICAL PERSONS (cont)

An Unregistered Labor Organization Cannot Sue

### JURIDICAL PERSONS (cont)

**Estoppel**

### JURIDICAL PERSONS (cont)

- a person who contracts with a "corporation" cannot later deny its personality. But the person who represents himself as the agent of a non-existing corporation cannot prevent the person who has been misled from suing the "agent" personally, since a non-registered corporation does not have a juridical personality.



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### JURIDICAL PERSONS (cont)

#### A Dissolved Corporation

### JURIDICAL PERSONS (cont)

- even if a corporation has been dissolved, it can still continue prosecuting (as plaintiff) or defending (as a defendant) for the next three years, through its legal counsel, who may be considered a "trustee" for this purpose.

\*Article 47.

### JURIDICAL PERSONS (cont)

UPON THE DISSOLUTION OF CORPORATIONS, INSTITUTIONS AND OTHER ENTITIES FOR PUBLIC INTEREST OR PURPOSE MENTIONED IN NO.



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### JURIDICAL PERSONS (cont)

2 OF ARTICLE 44, THEIR PROPERTY AND OTHER ASSETS SHALL BE DISPOSED OF IN PURSUANCE OF LAW OR THE CHARTER CREATING THEM.

### JURIDICAL PERSONS (cont)

IF NOTHING HAS BEEN SPECIFIED ON THIS POINT, THE PROPERTY AND OTHER ASSETS SHALL BE APPLIED TO SIMILAR PURPOSES FOR THE BENEFIT OF THE REGION, PROVINCE, CITY OR MUNICIPALITY WHICH DURING THE EXISTENCE OF THE INSTITUTION DERIVED THE PRINCIPAL BENEFITS FROM THE SAME. \*

### JURIDICAL PERSONS (cont)

**Rule If Public Juridical Persons Are Dissolved**



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### JURIDICAL PERSONS (cont)

A. This Article refers to public corporations or associations.

### JURIDICAL PERSONS (cont)

B. How assets are to be distributed:

### JURIDICAL PERSONS (cont)

1) First apply the provisions of the law or charter creating them.



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### JURIDICAL PERSONS (cont)

2) If there is no such provision, the assets will be for the benefit of the place which was already receiving the principal benefits during the existence of the corporation or association.

### JURIDICAL PERSONS (cont)

#### How a Corporation Can Exercise Its Powers and Transact Business

### JURIDICAL PERSONS (cont)

- it can only do so through its board of directors, officers, and agents - when authorized by a board resolution or its by-laws.



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