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No. 224

Bismillahi Rahmanir Rahim

I humbly dedicate this piece to Almighty Allah from Whom I source power and take guidance...



Tomara Maruhom Ayo, PhD
Counselor at Law



FOREWORD

To effectively articulate the rights of distressed OFWs based in the Middle East and Islamic countries, it is imperative that one must have basic knowledge in *Shari'a*, the fundamental law of Muslims worldwide.

Shari'a Legal Notes as compiled by its writer is a novel legal reference for Department's personnel directly tasked to promote the welfare and protect the rights of the afore-mentioned OFWs. I also understand that this book is a product of broad research and actual cases of OFWs.

In this regard, I wish to extend my sincerest congratulations to Mr. Muamar Ayo for this outstanding accomplishment.

Mabuhay!



RAFAEL E. SEGUIS
Undersecretary

Pasay City, 28 January 2014

Almost ten (10) years thereafter, this writer has decided to reprint this material amid the increasing number of *Shari'a*-related cases ranging from marital issues to death penalty cases or *qisas* of Overseas Filipino Workers (OFWs) based in the Middle East and Islamic countries. For *qisas* alone, which is punishable by death, the Office of the Undersecretary for Migrant Workers' Affairs (OUMWA) of the Department of Foreign Affairs (DFA) has a record of 27 cases as of this writing.

In 2008, a certain OFW was meted out death for blasphemy in a far-flung desert city in Saudi Arabia. Fortunately, the *Shari'a* court reduced his sentence to five (5) years imprisonment after strong representations were made by the Philippine Embassy in Riyadh based on *Shari'a* legal advisory.

The first compilation of this piece was used as a reference material during the Regional Consultative Meeting (RCM) of the Philippine Ambassadors to the Middle East and Gulf countries held in Manama, Bahrain on 1-3 of September 2003. And for this re-

production, the full text of Presidential Decree No. 1083 is annexed for ready reference.

In the hope to contribute in making the non-Muslim OFWs conscious on *Shari'a*, which is alien from their culture, this writer continues to assist distressed OFWs in the Middle East and their families in the Philippines, *pro bono* through legal advice and representation, whenever possible. The first issue of this compilation can be viewed and read at kuwait.pe@dfa.gov.ph and www.philembassykuwait.gov.kw.

For my professional growth, I wish to thank Undersecretary Rafael E. Seguis and Ambassador Ricardo M. Endaya of the Department of Foreign Affairs, for their unending support and encouragement.

Only God knows best!

The Writer

Lucena City, 11 March 2012

PREFACE

Shari'a Legal Notes for OFWs is the offshoot of legal inquiries I have been receiving from the Filipino community since my first day in the Philippine Embassy. Incidentally and knowing me by profession as *Shari'a* lawyer, former Ambassador Sukarno D. Tanggol designated me as *Shari'a* legal officer, in addition to my regular duties as Administrative Officer, without additional compensation.

In one occasion, Ms. Norma Bosano, managing staff and editor of Filipino PANORAMA, Kuwait Times approached me if I could possibly contribute a Filipino-related write up to her weekly publication, *pro bono*. Having in mind the importance or usage of *Shari'a* or Islamic law among expatriates in a Muslim country, I immediately said yes to her without hesitation. Hence, forty-four (44) issues of various *Shari'a* subject inquiries from OFWs were answered through and published in the Kuwait Times from 17th of March 2002, to 23rd of March 2003, ranging from the issues of marital problems to blood money. Of these forty-four (44) issues, seven (7) were

published under this writer's pen name and one by Michelle Fe Santiago of Kuwait Times.

The assumption to post of H.E. Bayani V. Mangibin as AEP to Kuwait reinforces my momentum, in light of his encouraging words and deep appreciation of the legal advisory I have been giving to the Filipino community. He saw it better than I do the need of this kind of services to the legally confused OFWs. In capping, he advised me to make this compilation for reference purposes of the Department of Foreign Affairs (DFA).

May the readers of this column find their way in avoiding trouble & may my advisor and mentor who is better known by initials as W.C.G. learns and appreciates my day-to-day activity in the field of *Shari'a*.

Only God knows best!

The Writer

State of Kuwait, 20 April 2003

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1083**

*A Decree To Ordain And Promulgate
A Code Recognizing The System Of
Filipino Muslim Laws, Codifying
Muslim Personal Laws, And
Providing For Its Administration
And For Other Purposes*

PERSONS AND FAMILY RELATIONS

A. Registration Of Conversion Or Reversion To Islam* (Date Published: 17 March 2002, Kuwait Times)

KUWAIT: The Philippine Law requires that Overseas Filipino Workers (OFW) who converted or reverted to Islam should register their conversion or reversion at the nearest Philippine Embassy or Consulate, as disclosed by *Shari'a* or Islamic Lawyer Tomara M. Ayo, the administrative officer at the Philippine Embassy in Kuwait.

He explained to Kuwait Times that this legal requirement is stipulated under Articles 81 and 176 of P. D. 1083 or the Muslim Code of the Philippines. He added that this is also stated in Rule 10 of Administrative Order No. 2 Series of 1993 that was issued by the National Statistics Office known as "Rules and Regulations Governing Registration of Acts and Events Concerning Civil Status of Muslim Filipinos".

Ayo pointed out that in the Philippines the registration is done at the *Shari'a*

Court or at the Office of the Civil Registrar General, if the conversion or reversion took place in a city or municipality where there is no *Shari'a* court.

He clarified that the registration is spiritually insignificant but he stressed on its importance. He said that if OFW converts or reverts registered their conversion or reversion, they are given a copy of the Official Conversion Certificate, which would serve as a *prima facie* proof that they profess the Islamic faith. He explained that this would attest to the fact that they are covered by the Muslim code or law, which has a number of legal benefits and privileges that are not found in the Civil Code of the Philippines or the Family Code of the Philippines. He added that it could also serve as basis to change their names to avoid confusion under R. A. 9048, since converts or reverts in general adopt Muslim names as soon as they embraced Islam.

Ayo alleged that only 11 out of a hundred OFW converts or reverts in Kuwait through the Islam Presentation Committee (IPC) and other Islamic organizations have registered their

conversion or reversion at the Philippine Embassy. He explained that this may be due to lack of information or negligence on the part of the converts. "Like the Birth Certificate which is demanded time and again for one's legal transaction, the Conversion Certificate may also be needed in the future for one's legal purposes.

Therefore, to play safe in the eyes of the law, especially those whose family has grown bigger in Kuwait, I advise them to register their conversion or reversion to Islam now," Ayo urged.

*By Michelle Fe Santiago

**B. Change Or Use Of Muslim Name
(Date Published: 31 March 2002,
Kuwait Times)**

Question: "I have been working in Kuwait for about 5 years. Recently, I converted to Islam and adopted a Muslim name. Since then, my Muslim officemates and friends are calling me by my Muslim name. However, my old friends and loved ones in the Philippines who have just learned of my conversion

to Islam and adoption of a Muslim name are at times, indecisive to call me by my new name. To be consistent, I am now thinking of officially changing my name. Is this legally possible?"

Alex a.k.a. Abdulrahman Ahmadi

Answer: "Yes, it is legally possible to change your name, both under R. A. No. 9048 and P. D. No. 1083. However, please note that your conversion to Islam or adoption of a Muslim name does not automatically change your name. To officially change your name, the entry of your name in the Book of Registry at the National Statistics Office (NSO), Manila must be changed.

Firstly, under Section 4 (3) of R. A. 9048, you may petition the Consul General of the Philippine Embassy in the form of an affidavit and state clearly the reasons of your petition, specifically invoking that the change will eventually avoid confusion. The Consul General will study and evaluate your petition. He will also ask you to submit a certified true machine copy of the certificate of the page of the registry book containing the entry or entries sought to be

corrected and other documents to support your petition, i.e. Certificate of Live Birth and Registration of Conversion to Islam. These documents are obtainable from the NSO.

Secondly, under Article 143 (2) (a) of P. D. 1083, you may petition the *Shari'a* District Judge (SDJ) or the Regional Trial Court, in the absence of the SDJ in your locality in the Philippines. However, it is advisable that you work out the change of your name at a place where you are physically present and habitually reside."

**C. Authority To Solemnize
Marriage (Date Published: 04
August 2002, Kuwait Times)**

Question: "We are both OFW converts to Islam and married under *Shari'a* or Islamic Law. A Filipino Muslim scholar who was designated by my wife as her guardian solemnized our marriage. For curiosity, we wanted to find out whether our marriage is legal or not under Philippine Law, inasmuch as the solemnizing officer is not a Consul, Judge or Imam. Please let us know."

Ali & Sally

Answer: "Your marriage is valid and legal pursuant to Article 18 of P. D. 1083. Under the said provision of law, it emphasizes that one of the authorized persons to solemnize marriage is the proper *wali* or guardian of the bride. Since your wife is a convert to Islam, it follows that only a Muslim *wali* or guardian can offer her for marriage (*Al-Hadith*), thus the designation of the said Filipino Muslim scholar as your wife's *wali* or guardian is both Islamic and legal. I regret that your wife's father who is not a Muslim could not offer her for marriage (*Al-Hadith*).

Moreover, your question seemed to doubt the lack of license to solemnize marriage by our wife's designated *wali* or guardian. In this regard please be informed that by implication, license is not needed or required for two (2) reasons:

Firstly, Islamic Jurisprudence clothes or covers your wife's *wali* or guardian with authority to solemnize marriage. Therefore, it is not necessary to exert further in securing one.

Secondly, *Shari'a* or Islamic Law is personal in its application to Muslims, which means that it is not affected by the constitution of a political society. The authority of law, according to Islamic Theory is primarily based on men's conscience and not on political force. Thus, if a Muslim goes from one state to another, the same personal or family laws bound him, which apply to his conscience wherever he goes. For this reason, marriage license is intertwined or ingrained with the very authority of the person authorized to solemnize marriage and consequently with the validity of such marriage, according to Islamic laws and traditions (Justice Jainal Rasul, Comparative laws: The Family Code of the Philippines and the Muslim Code)."

D. Marriage: Muslim Male And Non-Muslim Female (Religion Should Not Be Induced By Force) (Date Published: 14 April 2002, Kuwait Times)

Question: "I am a widow, 38 years old, and with three (3) children in the Philippines, and employed as a secretary of a company in Farwaniya. My Egyptian officemate proposed to marry

me, but he wants me to convert to Islam, which I opposed. It is not that I do not like Islam as a religion, but I am a devout Catholic. I am also in love with the guy though he has a wife and children. Is it legal, as far as the *Shari'a* or Islamic Law is concerned, for us to get married even if I do not convert to Islam?"

Zenaida Macalalad

Answer: "For your information, there is no legal impediment for you and your Egyptian officemate to get married under *Shari'a* or Islamic law.

The Muslim code applies to marriages wherein both parties are Muslims or wherein only the male party is a Muslim and the marriage is solemnized in accordance with the Muslim law (Article 13 P.D. 1083). In fact, Prophet Muhammad, *peace be upon him* also married a Non-Muslim Female by the name of Maria Kobti (Maria, the Copt), who later converted to Islam. Therefore, it is legal and valid for you and your officemate to celebrate your marriage under Muslim law.

However, you are going to encounter some manageable problems with the officiating Imam (Muslim priest) once he learns that you are not a Muslim, as Imams, in practice, only solemnize marriages wherein both parties are Muslims. Perhaps, this is one of the concerns of your officemate or he simply wanted to ensure that your future children are bred and nurtured under your care as a Muslim mother.

In this instance and assuming that you are now married to each other, I wonder if you can conscience your moral and social standing as a devout Catholic, who is married to a man, who is also married to another woman. To my mind, it is in the broader interest of the family that you reconsider the proposal of your officemate based on its social and legal impact.

Meanwhile, I submit that religion depends upon faith and will, and it will be meaningless if it is induced to anyone against his/her will (2:256, The Holy Qur'an)."

**E. Marriage: Non-Muslim Male
And Muslim Female (Date
Published: 22 September 2002,**

Question: "I am a visa 18 OFW and a convert to Islam. My boyfriend for 3 years is a Non-Muslim. Recently, he proposed me a marriage, but when I told him to convert first to Islam before he marries me, he politely declined. Instead, he proposed that we would not mind each other's religion and keep our relationship going, if I agree. Is this *halal* and legal under *Shari'a* or Islamic Law?"

Answer: "No. It is *haram* or forbidden for a Muslim woman to be married to a Non-Muslim man (2:221, The Holy Qur'an, Article 13, P.D. 1083). *Shari'a* Jurisprudence explains that one of the reasons is that because the man is the head and maintainer of the family, he also takes absolute responsibility for his wife's protection. While Islam as a religion of peace guarantees the freedom of belief, others do not. Therefore, Islam cannot take chances on the future of its daughters by giving them to others who do not ensure such.

Besides, it seems impossible for a Muslim woman to retain her respect for

her belief as well as practice her religion properly, if the master of the house opposed her from the very beginning and at every step. It is only right and consistent that the parties to the marriage should have the same spiritual outlook. If you love each other dearly, your outlook in the highest things in life must be the same. Note that religion here is not a mere label or a matter of custom or birth, but a matter of spiritual relations with the Almighty.

I am certain that by mutual understanding, you would come to see the truth in the same way and openly accept the same religious rites and social companionship. Otherwise, your position will become impossible individually and socially.

If I may suggest, please try to convince your boyfriend again and picture him the real Islam as a religion and as a way of life. Good luck to both of you."

F. Marriage: Solemnized Outside The Philippines (Freedom Of Religion Under Kuwait's Constitution)* (Date Published: 28 April 2002, Kuwait Times)

Question: "I worked for a government company as a computer analyst for more than three (3) years. My live-in boyfriend, an OFW, and I have decided to officially get married in Kuwait. He suggested that we should go to the Justice Palace, and not to the Philippine Embassy or to the church. In case, I follow his suggestion, is our marriage valid and honored in the Philippines? What are the legal steps? Is it possible to have our marriage solemnized at the Justice Palace without converting our faith to Islam?"

Name Withheld

Answer: "Under the doctrine of *lex loci celebrationis*" or the law of the place of celebration of marriage (Oxford Dictionary of Law), your proposed marriage at the Justice Palace is valid and honored in the Philippines, provided that there are no legal impediments for both of you to contract marriage under Philippine law. In this concept, all marriages solemnized outside the territory of the Philippines in accordance with the laws in force in that country and are valid and legal there as such shall

also be valid and legal in the Philippines (Justice Jainal Rasul, Comparative Laws: The Family Code of the Philippines and Muslim Code, pages 70-71). For this purpose, you may wish to read Articles 21-26 of the Family Code of the Philippines.

As to the legal steps after your marriage ceremony, you must present your Certificate of Marriage at the Consular Department of Kuwait's Ministry of Foreign Affairs for authentication, and the Philippine Embassy in Jabriya for registration and onward transmission to the Office of the Civil Registrar General in Manila. Meanwhile, you can have your marriage officiated at the Justice Palace without being converted to Islam.

Let me point out that conversion to Islam is neither a compulsive gesture (2:256, The Holy Qur'an) nor a marriage requisite under the Family Law of Kuwait. In fact, the State of Kuwait protects the freedom of practicing religion in accordance with the established customs, provided that it does not conflict with the public policy or morals (Article 35, The Constitution of the State of Kuwait)."

*Published under writer's pen name

**G. Validity Of Divorce Or
Remarriage Conducted Abroad*
(Date Published: 12 May 2002,
Kuwait Times)**

Question: "My husband is a Filipino Catholic. After years of marriage he divorced me through a local court in Kuwait. Actually, he married another woman in the Philippines while our marriage exists. We were married in Kuwait without changing our religion to Muslim. However he converted to Muslim while he was seeking for divorce. Now that we are divorced in Kuwait, can I marry also in Kuwait? I remained a Catholic and I know that there is no divorce in the Philippines. Please don't divulge my identity. Thank you."

Ms. Secret

Answer: "Yes, you can remarry either in Kuwait or in the Philippines. The divorce legally obtained in Kuwait by your husband is also valid and legal in the Philippines, although divorce is not

allowed under Philippine law. This principle is known as "*lex loci celebrationis*" or the law of place of celebration of marriage (Oxford Dictionary of Law). Under this principle, all marriages solemnized and divorces obtained outside the territory of the Philippines in accordance with the laws in force in that country and are valid and legal there, as such shall also be valid and legal in the Philippines (Justice Jainal Rasul, Comparative Laws: The Family Code of the Philippines).

You might be thinking of a permanent union as a Filipino Catholic, but unfortunately or fortunately, that concept of permanency in marriage cannot prevail over the divorce legally obtained by your husband. While the sanctity of marriage is an essential basis of a family life, the incompatibility of individuals and weaknesses of human nature require certain outlets and safeguards, if that sanctity is not to be made into a fetish at the expense of human life. That is why divorce is linked with the question of insolent impiety. I believe that your husband merely availed himself of the social and legal remedy underlying the concept of divorce under *Shari'a* or Islamic Law.

However, Islam for the record, safeguards divorce to ensure that its use is not tantamount to abuse, inasmuch as of all the things permitted by the *Shari'a* or Islamic Law, divorce is the most hateful in the sight of the Almighty (S.65, The Holy Qur'an). At any rate, I wish you luck!"

*Published under writer's pen name

H. Validity Of Marriage Conducted In-Absentia (Importance Of Father's Consent And Formalities Of Marriage Contract) (Date Published: 21 July 2002, Kuwait Times)

Question: "I am a visa 18 OFW. My Pakistani suitor proposed to marry me under *Shari'a* or Islamic law. However, he wanted the full consent of my parents, particularly my father. He also proposed that our marriage be celebrated at my parent's place in the Philippines. But, my parents lived in one of the remote areas in Muslim Mindanao.

Considering the expenses involved in his

proposal, is it possible to have our marriage celebrated in the Philippines without our physical presence, and is it legal?"

Badria

Answer: "Yes, you can have your marriage celebrated legally in the Philippines without your physical presence. Meanwhile, your suitor's desire to get the full consent of your parents, particularly your father's nod is laudable as it is in accordance with the *Shari'a* or Islamic Law.

For pragmatic reason, I wish to inform you that *Shari'a* or Islamic law allows a marriage by proxy or through lawful representation. Under this arrangement, your suitor can appoint or authorize somebody to represent him in the Philippines. In other words, as your father offers you as bride to your suitor, the latter's representative will accept the said offer, and in response, will state the dowry agreed upon, in the presence of at least two (2) competent witnesses (Articles 15 and 19, P. D. 1083).

Since both of you are based in Kuwait, I

wish also to inform you that the authority of your suitor's representative must be executed in writing and notarized or acknowledged by a Philippine Consular Officer. Moreover, the Marriage Certificate shall also be signed and coursed through the *Shari'a* court in your parent's locality. And as a standard procedure, the Marriage Certificate must be authenticated with the Department of Foreign Affairs in Pasay City and the Embassy of Kuwait in Manila, for legal purposes (Consular Section, Philippine Embassy, and State of Kuwait)."

I. Adoption (Date Published: 11 August 2002, Kuwait Times)

Question: "I am a visa 18 OFW, a convert to Islam and single. Recently, I decided to adopt a child since I felt hopeless of having a child of my own as I am already in my late 40's. But my Kuwaiti sponsor who facilitates my conversion to Islam discouraged me. He said that it is against Islam and the *Shari'a* or Islamic Law. Is this true?"

A. Mariam

Answer: “Yes, it is true that adoption is against Islam and *Shari’a* or Islamic Law (Article 64, P. D. 1083), but of course, there is an adoption per se in Islam as what Prophet Muhammad, *peace be upon him* did to Zayed (*Al-Hadith*). However, the adopted child has no right to inherit from his or her adopted parents and their relatives. At most, he or she is entitled to a valid deed in gift or will without prejudice to the legal heirs of his or her adopted parents (Tagore, Law Lecture, 1873, p24).

Adoption in Islam is not the kind of adoption as recognized in the Philippines, i.e. to convert the relationship into a legal one or to give the child born of illegitimate union the same consideration as that child born of lawful wedlock. In other words, a child who is adopted in Islamic society cannot be considered legitimate with all the rights and privileges of a compulsory heir as Islamic Jurisprudence does not recognize a relationship created by law regarding adoption.

Though Islam or *Shari’a* or Islamic Law considers adoption to benefit the adopter to experience the joys and instinct of

parenthood, it cannot consider a person who is, by nature, a stranger to contest with those entitled to inherit from the estate of the testator, save as one who receives a donation or as a legatee (Justice Jainal Rasul, Comparative Laws: The Family Code of the Philippines, and the Muslim Code).”

J. Husband's Remittance And Spending For The Family (Date Published: 23 February 2003, Kuwait Times)

Question: “I am one of the OFWs married to an Arab national. My problem is that my husband is not remitting his monthly salary to me since our marriage in 1999. If I may ask, what is obligatory to him in terms of family spending? Thank you.”

Madam Pamela

Answer: “First of all, remitting the husband's salary to a wife is not mandatory under *Shari’a* or Islamic Law, unless it is stipulated in the marriage contract.

Secondly, family spending that is obligatory to your husband are your living expenses that are necessary, i.e. food, water, or pure drink, clothes that protect you from heat and cold, and lodging that provides you with comfort and stability. The only difference or question that needs an answer is with respect to the kind of food or standard of living that your husband is supposed to meet. In this case, it all depends on the financial capability of your husband and your social standard.

Moreover, please be informed that under the Muslim Code of the Philippines, it emphasized that the amount of support shall be in proportion to the resources of the giver and the needs of the recipient. And in case of disagreement, the matter is better left to the discretion of the judge or person in authority to determine the ability and affordability according to the conditions and customs of the Muslim community (Abu Bakr Al-Jazairy, Minhaj Al-Muslim: Vol. 2)."

K. Maltreatment Or Unusual Cruelty Of Husband (Date Published: 29 September 2002, Kuwait Times)

Question: "Please advise me through your PANORAMA column. My Arab husband is my former employer and until now he has not applied to amend or change my visa 20. My big problem is he has a bad habit of hitting me even at slight mistakes. When I confronted him about this habit, he said he is allowed to do so under Islamic Law. But, I am in doubt with his answer that is why I wrote this letter. Please enlighten me because I am losing patience and beginning to feel that he intends to divorce me. His hitting habit is merely intended to provoke me so that I can fight back and consequently divorce me."

Name Withheld

Answer: "Your Arab husband has no basis under *Shari'a* or Islamic Law to hit you as direct punishment for your slight mistakes. Likewise, he may not be aware of the *Hadith*, when Prophet Muhammad, *peace be upon him*, once said to his companions that, "your wives are the apples of your eyes".

On this basis it is *haram* for the husband

to torment and mistreat his wife even at slight mistakes, unless, the wife is guilty of clear immorality (419, The Holy Qur'an). And even if the wife is guilty of clear immorality, the remedy is not to hit her, but to bring her to justice.

In your case you may wish to bring your husband's unusual cruelty to the attention of the Ministry of Justice in Kuwait City or where your marriage was celebrated (Articles 52-53, P. D. 1083). I am certain that the law is at your side. However, since you are losing patience, make sure that you will get your due under *Shari'a* or Islamic Law in case he divorces you."

L. Taking Or Spending Wife's Salary (Date Published: 27 January 2003, Kuwait Times)

Question: "My wife's salary is bigger than my salary. She is a medical doctor and I am only a medical staff in a contracting company in Kuwait. Because of this, there are times when I have to use and take her salary. Is this allowed under *Shari'a* or Islamic Law? Please let us know."

Omar (Mario) Perez

Answer: "As a rule, the husband is not allowed to spend or take his wife's salary pursuant to a *Shari'a* concept of complete separation of property where the exclusive property of each spouse is respected during their marriage. However, if the wife agrees without any complain or voluntarily surrenders her salaries to her husband, then, there is no wrong in doing so or accepting such (Article 37, Muslim Code of the Philippines). But every amount she contributed to you is considered as a form of assistance, and perhaps it is her happiness and pleasure to support you in this manner (Ibn Baz, Fatawa Islamiya: Vol. 5).

Moreover, this is in accordance with the explanation presented by *Shari'a* Jurisprudence that permits the husband to enjoy what is remitted to him voluntarily without fear of any harm (4:4, The Holy Qur'an). In your case, I'm glad that it is covered by the aforementioned situation."

M. Divorcing A Wife While She Is Out Of The Country (Date

Question: "I am married to a Kuwaiti national and have three (3) children with him, all girls. Because of fear for a possible chemical attack from Iraq, I asked my husband to bring our children to Manila for the time being. However, he refused and also threatened to divorce me in case I bring my children with me to Manila against his will. But, because of my sad experience during the Gulf War, I still intend to bring my children out of this country despite my husband's threat. My question is can he divorce me while I am in the Philippines?"

Sandra

Answer: "In your circumstance, your husband can easily divorce you while you are out of the country, especially if you and your children leave for Manila against his will.

Under *Shari'a* or Islamic Law, the wife is supposed to respect the husband's decision with utmost sincerity. Security wise, your decision may be right, but

bringing the children out of this country against your husband's will may give you more headaches than the feared chemical attack from Iraq, inasmuch as your matrimonial union is at stake in this issue. In a worst-case scenario, your husband may possibly give you problems other than "divorce". Therefore, it is not advisable to bring your children to Manila against your husband's will.

Perhaps, the best thing for you to do is to continue presenting your idea to him in a nice and diplomatic manner. You may also keep on updating him of the day-to-day development being shown in the television and printed in the newspapers. Through this approach, he may realize later that your idea to bring the children out of this country for the moment is a wise decision."

**N. Divorcee's Freedom To Remarry
(Date Published: 27 October
2002, Kuwait Times)**

Question: "I am a divorcee OFW and a Muslim. My ex-husband is a Non-Filipino national. He divorced me in 1999. This year I have decided to accept

the marriage proposal of my Filipino suitor, who is my officemate. However, I am afraid that my father will disagree or oppose my decision since my suitor is a married man with five (5) children. Please give me your *Shari'a* legal opinion as we are scheduled to contract marriage this coming *Ramadhan*, God willing.”

Salma

Answer: “First of all please accept my congratulations on your decision to remarry. Secondly, please be informed that as a divorcee, you have the complete freedom to remarry under *Shari'a* or Islamic Law (Yusuf Al-Qaradawi, *The Lawful and the Prohibited in Islam*, page 218). And in your status, neither your father nor ex-husband can prevent you from marrying anyone of your choice.

However, to ensure harmony and in reverence to your father, it is only proper that you inform him of your decision, after all, you have already scheduled to contract marriage this coming *Ramadhan*. I believe that as a Muslim and as a concerned father, he will not make a fuss or objection against your

welfare and happiness.

Finally, you may wish to know that, parent's attitude of preventing their children to marry a man or woman of their children's choice is a practice inherited from the *jahilliyah* or pre-Islamic era.”

O. Rights Of Divorcee And Children's Support (Date Published: 09 June 2002, Kuwait Times)

Question: “My husband and I are both visa 18 OFWs and married under Islamic law in Kuwait. Our problem started when my husband's first and Non-Muslim wife came to Kuwait and nagged my husband to choose and maintain only one wife. I feel that my husband is going to divorce me in favor of his first wife since they have three (3) children.

In case he obtained a divorce, what are my rights together with my new born child? Please advise me. I wanted my child to grow up with a father in his side, otherwise I will return to the Philippines for good.”

Name Withheld

Answer: "Much of your desire to have your child grown up with the father in his side, and inasmuch as divorce is a legal remedy which is allowed under *Shari'a* or Islamic Law, fortunately or unfortunately, you have to face the reality in case your husband divorces you. However, let me emphasize that "divorce" is a couple's last recourse and the most hateful of all acts in the sight of Almighty God, that are permitted under *Shari'a* or Islamic Law (*Al-Hadith*).

At any rate, you are entitled to support together with your new born child during the *idda* or three-month grace period given to your husband to reconsider his application for divorce. The *idda* is to start from the time your husband applies for divorce, and the support includes everything that is indispensable for sustenance, dwelling, clothing and medical attendance (16:73, 19:62, 67:21, The Holy Qur'an) according to the means of your husband and your social standing. The amount shall be in proportion to his resources and your actual needs. However, if you are a

nursing mother and continued to breastfeed your child, the support is extended until the time of weaning or a period of two (2) years until your child is accustomed to a food other than the mother's milk (Articles 65, 66, 67, P. D. 1083, 2:283, The Holy Qur'an).

Since you intend to resettle back to the Philippines, you can go to a Philippine *Shari'a* Circuit Court for legal action, in case your husband declines to comply with his obligation under *Shari'a* or Islamic Law (Article 155, f, P. D. 1083)."

*Published under writer's pen name

P. Custody Of Minor Children*
(Date Published: 19 May 2002,
Kuwait Times)

Question: "My Kuwaiti husband divorced me last year in Kuwait, although we got married in Zamboanga. We have three (3) children: a boy and two (2) girls. I have no problem with regard to financial support. However, the problem started when my ex-husband tried to take my children away from my