

Respons

## Filippinene: Bigami

Problemstilling/spørsmål:

- Vil et ekteskap som er inngått mens en av partene allerede er gift være gyldig på Filippinene?
- Vil ekteskapet ev. være ugyldig som følge av at det ikke er lov å inngå ekteskap mens man er gift, eller må det ev. annulleres (f.eks. om filippinske myndighetene ikke var klar over at en av partene var gift, og de derfor ble viet)?

**Vil et ekteskap som er inngått mens en av partene allerede er gift være gyldig på Filippinene?**

I henhold til The Family Code of the Philippines (1987, art. 13):

*In case either of the contracting parties has been previously married, the applicant shall be required to furnish, instead of the birth or baptismal certificate required in the last preceding article, the death certificate of the deceased spouse or the judicial decree of the absolute divorce, or the judicial decree of annulment or declaration of nullity of his or her previous marriage.*

I lovens artikkel 35 heter det: “The following marriages shall be void from the beginning: (4) **Those bigamous or polygamous marriages not failing under Article 41.**” (Landinfos utheving.)

Artikkel 41 presiserer:

*A marriage contracted by any person during subsistence of a previous marriage shall be null and void (Landinfos utheving), 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. 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.*

Respons **Filippinene: Bigami**

Videre, i henhold til informasjon fra US Department of State (2007), så anerkjenner ikke Filippinene skilsmisse – mens separasjon og religiøs annullering godkjennes:

*The law does not provide for divorce, although courts generally recognize the legality of divorces obtained in other countries if one of the parties is a foreign national. The government recognizes religious annulment, but the process can be costly, which precludes annulment as an option for many women. Many lower-income couples simply separated informally without severing their marital ties.*

Dette bekreftes også i en annen publikasjon fra samme kilde (u.å.):

*DIVORCE DECREE. Available. Certified copies of the divorce certificate can be obtained from the appropriate court. Divorce was recognized in the Philippines between March 11, 1917 and August 29, 1950; since the latter date, courts have been empowered to grant legal separation but not divorce. Even during the period of legal recognition, divorces were rare in the Philippines because of limited legal grounds for granting divorces.*

**Vil ekteskapet ev. være ugyldig som følge av at det ikke er lov å inngå ekteskap mens man er gift, eller må det ev. annulleres (f.eks. om filippinske myndighetene ikke var klar over at en av partene var gift, og de derfor ble viet)?**

I henhold til den filippinske ambassaden i Oslo (e-post 19.februar 2009):

*The Philippines does not recognize divorce and as such, in order to contract a new marriage, one has to either get an annulment or have his or her marriage declared void or annulled from the start. According to our laws, a marriage can either be voidable or void from the beginning if the grounds exist for this declaration. An example of the latter is when either party has already contracted a valid marriage before the institution of the subsequent marriage.*

Før inngåelse av nytt ekteskap vil det være nødvendig å:

*Declaration of Nullity on the other hand, states that the marriage is void or did not even legally exist in the first place. A Filipino or Filipina can marry again once there is a final judgement from the court that declares the marriage as null and void from the very beginning. The case that will be filed is what we call "petition to declare the marriage as null and void" and commonly called as "petition for nullity of marriage". Hence, for the purpose of remarriage, a void marriage must be declared and there must be a judicial Declaration of Absolutely Nullity of a prior subsisting marriage before contracting another (Landinfos utheving). (Lepiten 2005)*

Hvis et ektepar, hvor den ene ektefellen allerede er gift, fortsatt skulle ønske å inngå i et legalt bindende ekteskap, vil følgende fremgangsmåte måtte velges (Filippinenes ambassade i Oslo, e-post 11. februar 2009):

*If person A marries person B and discovers that person B is already married, person*

Respons **Filippinene: Bigami**

*A must have their marriage declared null and void from the very start by a court of law in the Philippines. After having done this and having obtained the declaration of nullity of the marriage, should person A still wish to marry person B and have said marriage legally recognized, person B should also apply for the annulment of his or her previous marriage with the appropriate court. Only after the marriage of A and B is declared null and void from the start and only after person B has his or her first marriage annulled can A and B "re-marry" and have a valid or legal marriage.*

Landinfo vil avslutningsvis understreke at det gjelder egne regler mht. ekteskapsinngåelse og skilsmisse for muslimer.

En respons er et svar på konkrete spørsmål og problemstillinger som saksbehandlere i utlendingsforvaltningen har stilt Landinfo. Responser er ikke ment å være utfyllende redegjørelser for et tema eller et spørsmål, men skal gi svar på de konkrete spørsmålene som er stilt, og ellers inneholde det som til enhver tid trengs av bakgrunnsinformasjon.

## Referanser

### Skriftlige kilder

- The Family Code of the Philippines (1987). [s.l.]: Chan Robles Virtual Law Library. Tilgjengelig fra <http://www.chanrobles.com/executiveorderno209.htm> [lastet ned 13. februar 2009]
- US Department of State (2007, 6 March). *Philippines - Country Reports on Human Rights Practices 2006*. Washington, DC: US Department of State. Tilgjengelig fra <http://www.state.gov/g/drl/rls/hrrpt/2006/78788.htm> [lastet ned 13. februar 2009]
- US Department of State (u.å.). *Documents – Philippines Reciprocity Schedule*. Washington, DC: US Department of State. Tilgjengelig fra [http://travel.state.gov/visa/frvi/reciprocity/reciprocity\\_3650.html](http://travel.state.gov/visa/frvi/reciprocity/reciprocity_3650.html) [lastet ned 13.02.2009]
- Lepiten, M. (2005, 17 December). *Annulment or Nullity of Marriage, Philippines* [blogg]. Tilgjengelig fra <http://nullitymarriage.blogspot.com/2005/12/annulment-or-nullity-of-marriage.html> [lastet ned 13. februar 2009].

Magdalena Lepiten er advokat på Filippinene og jobber med familielov. Landinfo har fått tilsendt denne linken via Den filippinske ambassaden i Oslo.

### Muntlige kilder

- Filippinenes ambassade i Oslo, ved Lenna Eilleen C. de Dios, tredjeseekretær og visekonsul. E-post 29. januar og 11. februar 2009.

## Respons **Filippinene: Bigami**