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Comparative Analysis of Parental Authority Frameworks: Policy Directions for Strengthening Philippine Family Law

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CITATION

Abejuela A, Ricamora MS, Nuñez N and Reynoso L. Comparative Analysis of Parental Authority Frameworks: Policy Directions for Strengthening Philippine Family Law. *Inclusive School Governance Review*. 2025; 1(2): 134.

<https://doi.org/10.63808/isgr.v1i2.134>

ARTICLE INFO

Received: 25 June 2025

Accepted: 23 July 2025

Available online: 26 September 2025

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Abstract: This research investigates the legal concept of parental authority in selected countries as a basis for refining provisions within the Philippine Family Law. Guided by the 1987 Philippine Constitution and the Philippine Family Code, the study examines statutory principles, Supreme Court jurisprudence, and international practices on parental rights and responsibilities. The analysis emphasizes the shared exercise of parental authority, the continued application of the tender-age doctrine, and the necessity for clearer provisions on parental fitness. Comparative insights are drawn from legal systems in Japan, Canada, Norway, the United States, and other jurisdictions to inform policy enhancement. The study concludes with recommendations for legislative amendments that safeguard the welfare of the child while strengthening parental accountability.

Keywords: parental authority; Philippine family code; child welfare; custody; legal reform



1. Introduction

The Principles of Family Life - including Rights, Duties, and Obligations of Parents - constituted under the 1987 Philippine Constitution. There are more in-depth provisions found in the various statutes such as the Philippine Family Code. But the Constitution is the trunk that bears the affirmation of the roles of parents in the bringing up of children: the locus of primary responsibility for their development is established as the parents to be beyond mere provision of food, clothing, and shelter to emotional, moral, and even psychological development. It is the duty of the State to recognize the role of youth in national development and take care of their welfare. Thus, parents are said to have a constitutional obligation to provide education for their children as a form of individual preparation for advancement as well as for contribution to society.

Nonetheless, while parents can raise children according to their own religious convictions, the other alternative maintains the freedom of religion as a constitutional right. Thus, it allows for parents to teach their religious beliefs to children while maintaining that a child's autonomy should be respected as he or she matures. The State, in the exercise of its *parens patriae* function, is able to intervene in matters of neglect, abuse, or other circumstances that pose a risk to the welfare of the minor. Parents who fail to fulfill their constitutional responsibilities risk legal consequences, including the revocation of parental authority. The constitutional mandate also defends the right of spouses to form a family in accordance with responsible parenthood, implying the duty to maintain a stable environment conducive to a child's well-being. While the Constitution defines these broad principles, the specific parameters of parental authority are primarily governed by the Family Code. Together, these laws position the State as a guarantor of children's welfare while affirming parents' duties and rights to fulfill their role effectively.

Pursuant to the natural rights and obligations of parents toward their unemancipated children, Executive Order No. 209 (Articles 209–214) defines parental authority and responsibility as encompassing the care, upbringing, and development of children's moral, mental, and physical well-being. This authority is jointly exercised by both father and mother, with the father's decision prevailing in the event of disagreement unless a court orders otherwise. The law also mandates respect and



obedience from children under parental authority and prescribes provisions for cases of absence, death, remarriage, or separation of parents, with the courts determining custody in the child's best interests. Additionally, for illegitimate children, the mother exercises sole parental authority regardless of paternal acknowledgment, subject to exceptions under the tender-age rule, which prohibits separating children below seven years from their mothers unless compelling reasons are proven in court.

2. Philippine Supreme Court Decisions

The Supreme Court of the Philippines has consistently issued rulings that clarify the scope and application of parental authority, guided by the provisions of the 1987 Constitution and the Philippine Family Code. While numerous cases have addressed the subject, this study includes only selected rulings that were readily accessible and directly relevant.

In *Renalyn A. Masbate and Spouses Renato and Marlyn Masbate v. Ricky James Relucio* (G.R. No. 235498, July 30, 2018), the Court reiterated the general rule that both father and mother exercise joint parental authority over their common children. For illegitimate children, however, Article 176 of the Family Code vests sole parental authority in the mother, regardless of paternal acknowledgment, unless compelling reasons show her unfitness. The decision also reaffirmed the "tender-age" presumption in Article 213, which bars the separation of a child under seven years from the mother except for substantial reasons, emphasizing the emotional harm such separation could cause.

In *Carlito E. Silva v. Court of Appeals and Suzanne T. Gonzales* (G.R. No. 114742, July 17, 1997), the Court underscored the natural and inherent rights of parents over their children, even in the absence of specific statutory provisions. Articles 209 and 220 of the Family Code affirm the parental duty to provide love, guidance, and companionship.

In *Melysinda D. Reyes v. Maria Salome R. Elquiero* (G.R. No. 210487, September 2, 2020), the Court clarified that while any person claiming a right to custody may file a petition, the legal entitlement to custody depends on statutory order of priority. Articles 214 and 216 specify that in the absence, death, or unfitness of parents, substitute parental authority is granted first to the surviving grandparent, then to the eldest sibling over 21, and finally to the child's actual custodian, provided they



meet legal qualifications. The Court ruled that non-relatives by affinity do not acquire custodial rights absent legal recognition.

Collectively, these cases illustrate that while joint parental authority is the default, statutory exceptions prioritize the child's welfare, applying established legal presumptions and a defined hierarchy of custodial rights.

3. Parental Authority in Selected Jurisdictions

United States: Prior to 2000, the U.S. Supreme Court consistently recognized the fundamental right of parents to direct their children's upbringing, with a presumption of parental suitability unless unfitness was proven. This changed in *Troxel v. Granville* (530 U.S. 57, 2000), where a divided decision allowed greater state discretion in defining parental rights. Earlier cases like *Meyer v. Nebraska* (262 U.S. 390, 1923) underscored the natural duty of parents to provide appropriate education.

Norway: Article 30 of the Norwegian Children Act (1981) outlines parental authority as both a duty of care and a decision-making right concerning a child's upbringing. Guardianship is separately regulated but often accompanies parental authority.

North Korea: Family law preserves paternal lineage traditions despite principles of gender equality. Parents must raise children to contribute to socialist society, while children must care for incapacitated parents.

Canada: The Children Act of 1989 defines 'parental responsibility' to include comprehensive rights and duties, from providing a home to making medical and educational decisions. The Parents' Bill of Rights further affirms parental authority in education and related matters.

Japan: The Civil Code says that parents are responsible for their children and must care for and teach them. This power includes looking after the child's things and acting as their lawyer.

Europe: Over time, European family law has gone from strict rules from the Middle Ages to more flexible ones. Canon law and later the Napoleonic Code had an effect on this change. On June 1, 2021, the Law on the Protection of Minors in China was changed so that parents are now in charge of teaching their kids morals and how to be good citizens.



Sweden: There is a difference between custody (personal welfare) and guardianship (legal and financial representation) in Sweden. This makes sure that custodians can meet the child's needs without having to take care of them themselves.

4. Research Objectives

The study was guided by the following objectives:

1. To determine the extent of parental authority and responsibility in the upbringing and care of children, while cultivating civic awareness, enhancing efficiency, and supporting their moral, mental, and physical development.
2. To examine at how parental authority works in some foreign countries and see if they can be used as examples to improve how parental authority works in the Philippines.
3. To suggest changes to laws and policies that would make parental authority stronger under Philippine family law.

5. Methodology

The study utilized a qualitative-descriptive methodology underpinned by comparative legal analysis. The review utilized pertinent decisions from the Philippine Supreme Court that elucidate and implement the provisions of parental authority as delineated in the 1987 Philippine Constitution and the Family Code. Jurisprudence was chosen for its accessibility and pertinence to the subject matter (Sacha & Quinn, 2010). Furthermore, literature and statutory provisions from other jurisdictions were scrutinized to discern practices and legal principles that could be adapted to the Philippine context. The research utilized primary legal sources, encompassing enacted statutes and judicial decisions, alongside secondary references, including scholarly publications, institutional reports, and legal commentaries. The research sought to produce informed recommendations for policy improvement in the exercise of parental authority by amalgamating local jurisprudence with international viewpoints.

6. Results and Analysis



A parent must cover a wide range of duties, including keeping children safe from physical attacks, from cruel words, or from trauma inflicted through gender-based violence. They also function as mentors, steering children toward secure and caring spaces, whether at home, in classrooms, or in the broader community (Murdoko, 2017). Guaranteeing a child's well-being has become a global benchmark because a country's future hinges on the security and health of its youngest citizens, and legal frameworks expand this obligation into formal requirements. Indonesia's youth justice statute, for example, sharpens this principle by ensuring that child victims receive a safe, respectful process during court cases. Rather than being incidental, the state sees this as its fundamental obligation, giving justice and the competence necessary for reintegration the central role that an enlightened society must extend. (Yanto et al., 2020).

The Philippine framework also shows this commitment by defining parental authority as a responsibility that goes beyond providing for their children's needs to include their moral and mental growth. Article 209 of the Family Code articulates that parents must nurture civic responsibility, moral integrity, and holistic growth. Such authority is legitimized by two interrelated aspects: first, the recognition of parents' right to regulate their children's behavior, and second, the child's duty to obey parental rules (Smetana et al., 2006; Darling et al., 2009). These principles influence children's openness to parental guidance, their willingness to disclose information, and their voluntary compliance with family norms.

Domain-specific theories of parental authority maintain that legitimacy is not given once for all but is conditional upon developmental stage, cultural values, and situational context (Smetana, 2017). Thus, prescriptiveness and expectation must shift in accordance with the child's chronological age, cognitive maturation, and social milieu. For example, more stringent authority may warrant justification in the case of toddlers, whereas restriction is less suited to the adolescent, who needs the latitude to forge identity and cultivate resilience. Cross-cultural studies suggest that in societies where obedience is emphasized, children are more likely to comply even in the absence of parental supervision, provided they internalize parental authority as legitimate.

The authority of parents differs from other forms of authority because, in many instances, children will even comply with parents' requests in the absence of the parent or imposed consequences as long as the parent is a legitimate authority and is



concerned about their well-being in the eyes of the child. When a child complies with unreasonable rules or policies with a certain type of respect through force, this is a demonstration of the valid use of parental authority (Darling et al., 2007). This implies that authority is not simply exerted; it is negotiated in the family context, and it is co-created as a consequence of parental trust, parental consistency, and parental legitimacy.

In the Philippine context, the continuous evaluation of the improvement of parental authority mechanisms is apparent. The contemporary reality of parenting and authority surrounding ardent challenges—whether they be the exposure to online vulnerabilities or navigating shifting cultural expectations—requires adaptive structures that weigh control with empathy. Literature has highlighted that ongoing reform of family law is not limited to conventional issues concerning the determination of custody or provision of material support, but also covers evolving issues of mental health and safeguarding against violence based on gender (Rahmawati, & Rachmawati, 2020); Suharyat et al., 2023).

As such, the study concurs with existing views on the basic tenet of parental authority as being purposive and providing children with civic, moral, mental, and physical development. Numerous rulings of the Supreme Court support the overarching tenet of joint parental authority but with exceptions, such as in the case of illegitimate children and with respect to parents found unfit. The tender-age doctrine also continues to be a pivotal standpoint. Furthermore, our literature across international jurisdictions identified similar rights and principles albeit contextualized in various regional issues.

7. Findings

Philippine law recognizes parental authority as both a right and a responsibility which imposes a duty to realize the totality and welfare of the child. It is a pre-dominant arrangement that joint parental authority between husband and wife will, in most situations, be the rule—albeit with the exceptions of illegitimacy, unfitness, or those for reasons prescribed by the law. One of the surest protections is the tender-age doctrine, which stipulates that, absent of a compelling reason otherwise, the mother should have custody of children below the age of seven years old. At the same time, comparative study of international regimes suggests that there some common threads



on parental authority, along with their cultural and legal regimes. With the other sets of protections mentioned, there is a glaring gap in the Philippine Law dealing with parental responsibility in the financial sense with no explicit mention of economic irresponsibility by either parent. It leaves the questions as to financial liability relatively unanswered from the present law.

8. Conclusion

Parental authority in the Philippines is based on natural and statutory rights. The law supports shared authority and prioritizes the best interest of the child but does not make clear rules on economic responsibility. There are international examples that may allow for the amendment of parental accountability.

9. Recommendations

1. Amend the Family Code to connect custodial rights with economic responsibility.
2. Keep shared parental authority, but clarify fitness.
3. Realize parental accountability by adopting best practices from other jurisdictions.

Conflict of interest: The authors declare no conflict of interest

Funding: This research received no external funding.

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