

Freedom in Death: Expanding the Disposing Power of the Decedent and Providing for a More Rational Sharing of Legitimes

John Boomsri S. Rodolfo

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Respecting the legitimes of the compulsory heirs, as mandated by the tenets of Civil Law practiced in the world over, is in keeping with the necessity of securing the needs of the decedent's family long after the former's death. The application of this principle in Philippine law, however, has been open to questions regarding its effectiveness through time.

The Philippine Civil Law tradition was borne from the Spanish Civil Code of 1889. After half a century, the Spanish Code was amended by the 1950 Civil Code of the Philippines, which removed several provisions relating to succession, such as the *mejora* (betterment), and the reversions and reservations (except for the *reserva troncal*). Less than 50 years later, the Family Code made important changes in the rights of illegitimate and adopted children. These changes, though for the better, have not addressed the flaws inherent in the present system of legitimes.

It is submitted that the combinations provided by law for hereditary sharing can lead to absurdity, when based on a rough estimate of the actual need of the compulsory heir. An ideal solution would be the amendment of the shares mandated by law to remedy this inequitable situation to which the compulsory heirs are subjected.