

Republic of the Philippines  
BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO  
Cotabato City

Bangsamoro Transition Authority

PARLIAMENT BILL NO. 146

Bangsamoro Autonomous Region in Muslim Mindanao  
Parliament  
BILLS AND INDEX DIVISION  
**RECEIVED**  
Name: ADELAH DAKTUAN Signature: [Signature]  
Date: 11/03/21 Time: 10:15 AM

**AN ACT**  
**PROVIDING FOR THE BANGSAMORO CODE OF MUSLIM**  
**PERSONAL LAWS**

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Introduced by MP Atty. Hamid Aminoddin Barra

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**EXPLANATORY NOTE**

It is beyond dispute that the Bangsamoro people share common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics. For this established fact, the Bangsamoro people therefore satisfy the constitutional requisite for the creation of an autonomous region for them. Thus, the 1987 Constitution of the Philippines not only requires consideration of the Bangsamoro people's customs, beliefs, and interests in the formulation and implementation of state policies, but also granted them autonomy by mandating the creation of their autonomous region, now the Bangsamoro Autonomous Region in Muslim Mindanao.

Muslim personal and family law is inseparable from the societal and family life of the Bangsamoro people. The Bangsamoro's personal and family law and traditions, which they practice with continuity and consistency ever since the advent of Islam in the Philippines centuries ago, have become an indelible and inherent aspect of the Bangsamoro's heritage. As people sharing that common and distinctive historical and cultural heritage so recognized in the Constitution, the Bangsamoro's personal and family law and traditions

should be as determined in accordance with that heritage. It should not be as determined by others who are not familiar with the Bangsamoro people's historical and cultural heritage. Indubitably, under the Bangsamoro Organic Law it is the Bangsamoro Parliament which, for having predominantly Muslim membership, is in a better position to legislate on Muslim personal and family law.

The proposed Bangsamoro Code of Muslim Personal Laws (BCMPL) introduces **enhancements, clarifications, and rectifications** of some provisions of Presidential Decree No. 1083. We understand that the latter national law is the statutory precedent embodying the law of persons and family relations of the Muslims in the Philippines in general. However, the proposed BCMPL – given that it is to be enacted in the context of the Bangsamoro – is a more nuanced articulation of Muslim personal and family law for the Bangsamoro people.

We fully understand also that the proposed BCMPL cannot amend, let alone repeal, P.D. 1083. However, the enactment of BCMPL does not depend on P.D. 1083. In its own right, the BCMPL can introduce enhancements, clarifications and rectifications involving Muslim personal and family law legislation in the BARMM, for the Parliament is so empowered under the Constitution and the Bangsamoro Organic Law. Besides, it is the autonomous prerogative of the Bangsamoro people to pass, through their Parliament, a law that will be truly reflective of what they believe under the Islamic faith as the accurate expression or articulation of their personal and family law and traditions.

The Constitution (Sec. 20, Art. X) specifically provides that the organic act of the autonomous region (BARMM) shall provide for legislative powers over personal, family, and property relations. In other words, the basis by which the BCMPL may be enacted is the **constitutional** (Sec. 20, Art. X, Constitution) and **organic** (Sec. 4, Art. X, BOL) **grant of legislative power** to its law-making body (Bangsamoro Parliament) to enact laws on Shari'ah, particularly personal and family law. The Bangsamoro Parliament will be exercising that power in the enactment of the BCMPL.

Needless to state, the Bangsamoro people, in fulfillment of their autonomy under the Constitution, have the right to be governed by the Muslim

personal and family law that is enacted by their own Parliament. Ultimately, the enactment of the BCMPL will truly bring about a sense of Bangsamoro autonomy.

The proposed BCMPL provides that Islamic law and its principles of equity and justice, to which the Muslim communities in the Philippines in general and the Bangsamoro Muslims in particular adhere, provide an essential basis for the fuller development of the Muslim communities and a conducive framework in the search for lasting peace and harmonious relation among indigenous peoples of the MINSUPALA Region and all segments of the Filipino nation to promote national unity.

The enforcement, with the full sanction of the State through the Bangsamoro Autonomous Government, of the legal system of the Muslims in the Philippines, specifically through the enactment of the Bangsamoro Code of Muslim Personal Laws, shall redound to the attainment of a more ordered life amongst the Bangsamoro and to the fulfillment of the objectives of the constitutional grant of autonomy for Muslim Mindanao.

It is for these reasons that the immediate enactment of this measure is earnestly sought.



**Atty. HAMID AMINODDIN BARRA, Ph.D.**

Member of Parliament

1 Republic of the Philippines  
2 BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO  
3 Cotabato City

4  
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10 Introduced by MP Atty. Hamid Aminoddin D. Barra, Ph.D.  
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13 **AN ACT**  
14 **PROVIDING FOR THE BANGSAMORO CODE OF MUSLIM**  
15 **PERSONAL LAWS**

16  
17 *Be it enacted by the Bangsamoro Parliament in session assembled:*

18  
19 WHEREAS, in recognition of the common and distinctive historical and  
20 cultural heritage, economic and social structures, and other relevant  
21 characteristics shared by the Bangsamoro, the Constitution of the Philippines  
22 not only requires consideration of their customs, beliefs, and interests in the  
23 formulation and implementation of state policies, but also grants them  
24 autonomy by mandating the creation of an autonomous region in Muslim  
25 Mindanao;

26  
27 WHEREAS, it is the intense desire of the Philippine Government and  
28 the Bangsamoro Autonomous Regional Government to strengthen all the  
29 ethnolinguistic communities in Muslim Mindanao within the context of  
30 their respective religion or ways of life in order to bring about a cumulative  
31 result satisfying the requirements of national solidarity and social justice;

32  
33 WHEREAS, Section 20, Article X of the Constitution provides that the  
34 organic act of autonomous regions shall provide for legislative powers over,

1 among others, personal, family, and property relations and such other matters  
2 as may be authorized by law for the promotion of the general welfare of the  
3 people of the region;

4  
5 WHEREAS Section 4, Article X of Republic Act No.11054 entitled  
6 "Organic Act for the Bangsamoro Autonomous Region in Muslim Mindanao"  
7 empowers the Bangsamoro Parliament to enact laws pertaining to *Shari'ah*,  
8 more particularly on persons, family relations and property, commercial, and  
9 other civil actions not provided for under Presidential Decree No. 1083, as  
10 well as on criminal jurisdictions on minor offenses punishable by *arresto*  
11 *menor* or *ta`zir* or fines commensurate to the offense;

12  
13 WHEREAS, Islamic law and its principles of equity and justice, to which  
14 the Muslim communities in the Philippines in general and the Bangsamoro  
15 Muslims, in particular, adhere, provide an essential basis for the fuller  
16 development of the Muslim communities and a conducive framework in the  
17 search for lasting peace and harmonious relation among indigenous peoples  
18 of the MINSUPALA Region and all segments of the Filipino nation to promote  
19 national unity;

20  
21 WHEREAS, the enforcement, with the full sanction of the State, of the  
22 legal system of the Muslims in the Philippines, specifically through the  
23 enactment of the Bangsamoro Code of Muslim Personal Laws, shall redound  
24 to the attainment of a more ordered life amongst the Bangsamoro and the  
25 fulfillment of the objectives of the constitutional grant of autonomy for Muslim  
26 Mindanao;

27  
28 NOW, THEREFORE, with the blessings of Almighty *Allāh*, the  
29 Bangsamoro people by the act of the Bangsamoro Parliament do hereby  
30 ordain and promulgate this Code:

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1 BOOK ONE

2 General Provisions

3 TITLE I.- Title and Purposes of Code

4  
5 *Article 1. Title.* — This Act shall be known as the “Bangsamoro Code of  
6 Muslim Personal Laws.”

7  
8 *Article 2. Purpose of Code.* — Pursuant to Section 4, Article X of the  
9 Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao,  
10 which empowers the Bangsamoro Parliament to enact laws on *Sharī`ah*, this  
11 Code:

12 (a) Affirms the recognition of the legal system of the Muslims in the  
13 Philippines as part of the law of the land and seeks to make Islamic  
14 institutions more effective;

15 (b) Codifies Muslim personal laws and other Muslim laws insofar as  
16 relevant to this Code; and

17 (c) Provides for more effective administration and enforcement of  
18 Muslim personal laws and other relevant Muslim laws among Muslims.

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20  
21 TITLE II

22 Construction of Code and Definition of Terms

23  
24 *Article 3. Conflict of provisions.* — (1) In case of conflict between any  
25 provision of this Code and laws of general application, the latter shall be  
26 liberally construed in order to carry out the former.

27 (2) Should the conflict be between any provision of this Code and  
28 special laws or laws of local application, the former shall prevail.

29 (3) The provisions of this Code shall be applicable only to Bangsamoro  
30 Muslims or Muslims residing in the Bangsamoro Autonomous Region in  
31 Muslim Mindanao except as otherwise provided in Article 13 and when the  
32 non-Muslim litigant voluntarily submits to the jurisdiction of the *Sharī`ah* Court.  
33 Nothing herein shall be construed to operate to the prejudice of a non-Muslim  
34 who acts in good faith.

1            *Article 4. Construction and interpretation.* — (1) In the construction and  
2 interpretation of this Code and other Muslim laws, the court shall take into  
3 consideration the primary sources of *Shari`ah*.

4            (2) Standard treatises and works on Muslim law shall be given  
5 persuasive weight in the interpretation of Muslim law and this Code.  
6

7            *Article 5. Proof of Muslim law and `adaḥ.* — Muslim law and *`adaḥ* not  
8 embodied in this Code shall be proven in evidence as a fact. No *`adaḥ* which  
9 is contrary to the Constitution of the Philippines, Muslim law, this Code, public  
10 order, public policy, or public interest shall be given any legal effect.  
11

12           *Article 6. Conflict in Islamic schools of law.* — (1) Should there be any  
13 conflict among the orthodox (*Sunnī*) Muslim schools of law (*madhāhib*), that  
14 which is in consonance with the Constitution of the Philippines, this Code,  
15 public order, public policy, and public interest shall be given effect.

16           (2) The Muslim schools of law shall, for purposes of this Code, be the  
17 *Hanafī*, the *Hanbalī*, the *Mālikī*, and the *Shāfi`ī*.  
18

19           *Article 7. Definition of terms.* — Unless the context otherwise provides:

20           (a) "Agama Arbitration Council" means a body composed of the  
21 Chairman and a representative of each of the parties to constitute a council to  
22 take all necessary steps for resolving conflicts between them.

23           (b) "*`adaḥ*" means customary law which, in this context, is consistently  
24 and generally practiced by the Bangsamoro Muslim community.

25           (c) "Bangsamoro" means those who, at the advent of the Spanish  
26 colonization, were considered natives or original inhabitants of Mindanao and  
27 the Sulu archipelago and its adjacent islands, whether of mixed or of full blood  
28 who have identified themselves, their spouses and descendants as  
29 Bangsamoro.

30           (d) "BARMM" refers to the Bangsamoro Autonomous Region in Muslim  
31 Mindanao;

32           (e) "Bangsamoro Organic Law" shall also mean Organic Law for the  
33 Bangsamoro Autonomous Region in Muslim Mindanao;

1 (f) "*Fiqh*" (Muslim law) refers to the human understanding and  
2 interpretation of *Sharī'ah*;

3 (g) "General Register" means the General Register of marriages,  
4 divorces, revocation of divorces, conversion, and such other deeds or  
5 instruments kept by the Registrar under this Code.

6 (h) "*Ihrām*" signifies the state of ritual consecration of a person while  
7 on pilgrimage to *Makkah*.

8 (i) "*Madhhab*" (plural, *Madhāhib*) means any of the four orthodox  
9 (*Sunnī*) schools of Muslim law.

10 (j) "*Mahr*" is a bridal money or anything of value required of the  
11 husband as an obligation imposed by law upon him as a token of respect and  
12 honor to his wife.

13 (k) "Month" means a period of thirty days.

14 (l) "Muslim" is a person who testifies to the oneness of *Allāh* and the  
15 prophethood of *Muhammad* and professes *Islām*.

16 (m) "Muslim Personal Law" includes all laws relating to personal status,  
17 marriage and divorce, matrimonial and family relations, succession and  
18 inheritance, property relations between spouses as provided for in this Code.  
19 It also covers, insofar as relevant to this Code or its enforcement, commercial  
20 and other civil actions not provided in Presidential Decree No. 1083 as well as  
21 *ta`zīr* offenses which the Bangsamoro Parliament may enact.

22 (n) "P.D. 1083" refers to the Code of Muslim Personal Laws of the  
23 Philippines.

24 (o) "*Sharī'ah*" (Islamic law) refers to all the ordinances and regulations  
25 governing Muslims as found principally in the *Qur'ān* and the *Sunnah*.

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BOOK TWO  
Persons and Family Relations  
TITLE I  
Civil Personality (*Shakhsiyyah Madaniyyah*)

*Article 8. Meaning and kinds of Legal capacity.* - (1) Legal capacity (*ahliyyah*) is the ability or fitness to acquire rights and exercise them and to accept duties and perform them.

(2) Juridical capacity (*ahliyyah al wujūb*), which is the fitness to acquire rights and to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act or capacity for execution (*ahliyyah al adā'*), which is the power to do acts with legal effect, is acquired and may be lost.

*Article 9. Restrictions on capacity.* — The following circumstances, among others, modify or limit capacity to act: age, insanity, imbecility, the state of being deaf-mute, the condition of death-illness (*marad al mawt*), penalty, prodigality, absence, family relations, alienage, insolvency, and trusteeship. The consequences of these circumstances are governed by this Code and Islamic laws and, in a suppletory manner, by other laws.

*Article 10. Personality, how acquired.* — Birth determines personality; but the conceived child shall be considered born for all purposes that are favorable to it, provided it be born alive, however briefly, at the time it is completely delivered from the mother's womb.

*Article 11. Extinction of personality.* — (1) Civil personality is extinguished by death. The effect of death upon the rights and obligations of a deceased person is determined by this Code, by contract, and by will.

(2) After an absence of seven (7) years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all legal purposes except the distribution of his estate, which is governed by Article 98 (c) and Titles II and III, Book Three of this Code.

1            *Article 12. Simultaneous death.* — If, as between two or more persons  
2 who are called to succeed each other, there is a doubt as to which of them  
3 died first, whoever alleges the death of one prior to the other shall prove the  
4 same; in the absence of such proof, it is presumed that they died at the same  
5 time and there shall be no transmission of rights from one to the other.  
6 However, the successional rights of their respective heirs shall not be  
7 affected.

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TITLE II

11

Marriage and Divorce

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CHAPTER I

13

Applicability Clause

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15            *Article 13. Application.* — (1) The provisions of this Title shall apply to  
16 marriage and divorce wherein both parties are Bangsamoro Muslims or  
17 Muslims residing in BARMM, or wherein only the male party is a Bangsamoro  
18 Muslim or a Muslim residing in BARMM and the marriage is solemnized in  
19 accordance with Muslim law or this Code in any part of BARMM or elsewhere.

20            (2) In case of marriage between a Bangsamoro Muslim or a Muslim  
21 residing in BARMM and a non-Muslim, solemnized not in accordance with  
22 Muslim law or this Code, the Civil Code of the Philippines or the Family Code  
23 of the Philippines, as the case may be, shall apply except when the Muslim  
24 who is neither a Bangsamoro nor residing in BARMM or the non-Muslim party  
25 voluntarily submits to the jurisdiction of the *Sharī'ah* Court.

26            (3) Subject to the provisions of the preceding paragraphs, the essential  
27 requisites and legal impediments to marriage, divorce, paternity and filiation,  
28 guardianship and custody of minors, support and maintenance, claims for  
29 customary dower (*mahr*), betrothal, breach of contract to marry, solemnization  
30 and registration of marriage and divorce, rights and obligations between  
31 husband and wife, parental authority, and the property relations between  
32 husband and wife shall be governed by this Code and other applicable Muslim  
33 laws.

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CHAPTER II

Marriage (*Nikāh*)

Section 1.- Requisites of Marriage

*Article 14. Nature.* — Marriage is a religious contract of permanent union between a man and a woman only. It is not only a civil contract but a social institution. Its nature, consequences, and incidents are governed by this Code and the *Sharī'ah* and not subject to stipulation, except that the marriage settlements may to a certain extent, fix the property relations of the spouses.

*Article 15. Essential Elements and Conditions.* — No marriage contract shall be valid and perfected unless the following essential elements (*arkān*) and conditions (*sharā'it*) are complied with:

(1) Essential elements (*arkān*) of a valid marriage:

- (a) Contracting parties who are male and female;
- (b) Proper guardian in marriage (*walī*);
- (c) At least two (2) competent witnesses; and
- (d) Offer (*ijāb*) and acceptance (*qabūl*).

(2) Conditions (*sharā'it*) of a valid marriage:

- (a) Legal capacity of the contracting parties;
- (b) Mutual consent of the parties freely given;
- (c) Stipulation of dower (*mahr*) duly witnessed by two (2) competent persons.

*Article 16. Capacity to contract marriage.* — (1) Any Muslim male at least fifteen (15) years of age and any Muslim female of the age of puberty or upwards and not suffering from any impediment under the provisions of this Code may contract marriage. A female however is presumed to have attained puberty upon reaching the age of fifteen.

(2) The *Sharī'ah* District Court may, upon petition of the proper *walī*, in exceptional cases, order the solemnization of the marriage of a female who though less than fifteen (15) but not below twelve (12) years of age, has attained puberty.

(3) Marriage through a *walī* by a minor below the prescribed ages shall be regarded as betrothal and may be allowed only upon order of the court

1 after determination that it is in the best interest of the minor. However, the  
2 marriage may be annulled upon the petition of either party within four (4)  
3 years after attaining the age of puberty even if the marriage was contracted by  
4 the father or paternal grandfather, provided that no voluntary cohabitation has  
5 taken place.

6  
7 *Article 17. Marriage ceremony.* — No particular form of a marriage  
8 ceremony is required but the *ijāb* and the *qabūl* in marriage shall be declared  
9 publicly in the presence of the person solemnizing the marriage and two  
10 competent witnesses. This declaration shall be set forth in a certificate of  
11 marriage in quadruplicate, signed or marked by the contracting parties and  
12 said witnesses, and attested by the person solemnizing the marriage. One  
13 copy shall be given to each contracting party and another sent to the Circuit  
14 Registrar by the solemnizing officer who shall keep the fourth.

15  
16 *Article 18. Authority to solemnize marriage.* — (1) Marriage may be  
17 solemnized:

18 (a) By the proper *walī* of the woman to be wedded;

19 (b) Upon the authority of the proper *walī*, by any person who is  
20 competent under Muslim law to solemnize marriage; or

21 (c) By the judge of the *Sharī`ah* District Court or *Sharī`ah* Circuit Court  
22 or any person designated by the judge, should the proper *walī* refuse without  
23 justifiable reason, to authorize the solemnization;

24 (2) Any person who is competent under Muslim law to solemnize  
25 marriage governed by this Code shall, before so doing, register as a  
26 solemnizing officer with the Bangsamoro *Dār al Iftā'* or its authorized  
27 representative or the Clerk of Court of the *Sharī`ah* Court.

28  
29 *Article 19. Place of solemnization.* — Marriage shall be solemnized  
30 publicly in any mosque, office of the *Sharī`ah* judge, office of the District or  
31 Circuit Registrar, residence of the bride or her *walī*, or at any other suitable  
32 place agreed upon by the parties.

33

1            *Article 20. Specification of dower.* — The amount or value of dower  
2 may be specified by the contracting parties (*mahr musammà*) before, during,  
3 or after the celebration of the marriage. If the amount or the value thereof has  
4 not been so fixed, a proper dower (*mahr mithl*) shall, upon petition of the wife,  
5 be determined by the court according to the social standing of the parties.  
6

7            *Article 21. Payment of dower.* — (1) Subject to the stipulation of the  
8 parties, the dower may be fully or partially paid before, during, or after the  
9 marriage. The property or estate of the husband shall be liable for the unpaid  
10 dower, or any part thereof.

11            (2) If the husband divorced the wife before the consummation of  
12 marriage, only one-half of the fixed dower (*mahr musammà*) becomes due.

13            (3) If the husband divorced the wife before the consummation of  
14 marriage and the dower has not been fixed, she is entitled to compensation  
15 (*mut`ah*) according to the financial standing of the husband.  
16

17            *Article 22. Breach of contract.* — Any person who has entered into a  
18 contract to marry but subsequently refuses without reasonable ground to  
19 marry the other party who is willing to perform the same shall pay the latter  
20 the expenses incurred for the preparation of the marriage and such damages  
21 and other just and equitable reliefs as may be granted by the court.  
22

## 23                            Section 2. - Prohibited Marriages 24

25            *Article 23. Bases of prohibition.* — No marriage may be contracted by  
26 parties within the prohibited degrees:

- 27            (a) Of consanguinity;  
28            (b) Of affinity; and  
29            (c) Of fosterage.  
30

31            *Article 24. Prohibition by consanguinity (Tahrīm bi al nasab).* — No  
32 marriage shall be contracted between:

- 33            (a) Ascendants and descendants of any degree;

- 1 (b) Brothers and sisters, whether germane, consanguine, or uterine;  
2 and  
3 (c) Brothers or sisters and their descendants.  
4

5 *Article 25. Prohibition by affinity (Tahrīm bi al musāharah).* — (1) No  
6 marriage shall be contracted between:

7 (a) Any of the spouses and their respective affinal relatives in the  
8 ascending line and in the collateral line within the third civil degree;

9 (b) Stepfather and stepdaughter when the marriage between the  
10 former and the mother of the latter has been consummated;

11 (c) Stepmother and stepson when the marriage between the former  
12 and the father of the latter has been consummated; and

13 (d) Stepson or stepdaughter and the widow, widower, or divorcee of  
14 their respective ascendants.

15 (2) The prohibition under this article applies even after the dissolution  
16 of the marriage creating the affinal relationship except for collateral relatives  
17 of the divorced spouses of any degree.  
18

19 *Article 26. Prohibition due to fosterage (Tahrīm bi al rada`).* — (1) No  
20 person may validly contract marriage with any woman who breastfed him for  
21 at least five times within two years after his birth.

22 (2) The prohibition on marriage by reason of consanguinity shall  
23 likewise apply to persons related by fosterage within the same degrees,  
24 subject to exceptions recognized by Muslim law.  
25

### 26 Section 3. - Subsequent Marriages. 27

28 *Article 27. By a husband.* — Notwithstanding the rule of Islamic law  
29 permitting a Muslim to have more than one wife but not more than four (4) at a  
30 time, no Muslim male can have more than one wife unless he can deal with  
31 them with equal companionship and just treatment as enjoined by Islamic  
32 law and only in exceptional cases.  
33

1           Article 28. By widow. — No widow shall contract a subsequent  
2 marriage unless she has observed an *`iddah`* of four months and ten days  
3 counted from the date of the death of her husband. If at that time the widow is  
4 pregnant, she may remarry within a reasonable time after delivery. In such a  
5 case, she shall produce the corresponding death certificate.

6  
7           Article 29. By divorcee. — (1) No woman shall contract a subsequent  
8 marriage unless she has observed an *`iddah`* of three monthly courses  
9 counted from the date of divorce. However, if she is pregnant at the time of  
10 the divorce, she may remarry only after delivery.

11           (2) Should a repudiated woman and her husband reconcile during  
12 her *`iddah`*, he shall have a better right to take her back without the need of a  
13 new marriage contract.

14           (3) Where it is indubitable that the marriage has not been  
15 consummated when the divorce was effected, no *`iddah`* shall be required.

16  
17           Article 30. Marriage after three *ṭalāq* — (1) Where a wife has been  
18 thrice repudiated (*ṭalāq ba'in kubrà*) on three different occasions by her  
19 husband, he cannot remarry her unless she shall have married another  
20 person who divorces her after consummation of the intervening marriage and  
21 the expiration of the *`iddah`*.

22           (2) No solemnizing officer shall perform the subsequent marriage  
23 mentioned in the preceding paragraph unless he has ascertained that there  
24 was no collusion among the parties.

25

#### 26   Section 4. - *Bātil* and *Fāsīd* Marriages

27

28           Article 31. *Bātil* marriages. — The following marriages shall be void  
29 (*bātil*) from the beginning:

30           (a) Those contracted contrary to Articles 23, 24, 25 and 26;

31           (b) Those contracted in contravention of the prohibition against  
32 unlawful Conjunction. There is unlawful conjunction when the husband, during  
33 the subsistence of marriage with his wife, conjoins in marriage the latter and  
34 her sister, or her paternal or maternal aunt or her niece;

1 (c) Those contracted by parties one or both of whom have been found  
2 guilty of having killed the spouse of either of them;

3 (d) Mixed marriages not allowed under Islamic law; and

4 (e) Those other marriages considered *bātil* under Islamic law.  
5

6 *Article 32. Fāsīd marriages.* — The following marriages shall be  
7 irregular (*fāsīd*) from their performance:

8 (a) Those contracted with a female observing *'iddah*;

9 (b) Those contracted contrary to Article 30;

10 (c) Those wherein the consent of either party is vitiated by violence,  
11 intimidation, fraud, deceit, or misrepresentation;

12 (d) Those contracted by a party in a condition of death-illness (*marad al*  
13 *mawt*) without the same being consummated; and

14 (e) Those contracted by a party in a state of *ihrām*.  
15

16 *Article 33. Validation of irregular marriages.* — (1) Irregular marriages  
17 may be made regular by a new marriage contract in the following cases:

18 (a) Those referred to in Article 32(a), after the impediment has been  
19 removed;

20 (b) Those referred to in Article 32(b), upon compliance with the  
21 requirement of Article 30;

22 (c) Those referred to in Article 32(c), after the causes vitiating consent  
23 have ceased;

24 (d) Those referred to in Article 32(d), in case the party recovers;

25 (e) Those referred to in Article 32(e), when the party is no longer in a  
26 state of *ihrām*; and

27 (2) The effects of the new marriage under the first paragraph shall  
28 retroact to the date of the celebration of the irregular marriage.  
29

30 Section 5. - Rights and Obligations Between Spouses.  
31

32 *Article 34. Mutual rights and obligations.* — (1) The husband and the  
33 wife are obliged to live together, observe mutual respect and fidelity, and  
34 render mutual help and support in accordance with this Code.



1 (2) When one of the spouses neglects his or her duties to the conjugal  
2 union or brings danger, dishonor, or material injury upon the other, the injured  
3 party may petition the court for relief. The court may counsel the offender to  
4 comply with his or her duties, and take such measures as may be proper.

5 (3) The husband and the wife shall inherit from each other in  
6 accordance with this Code.

7 (4) The husband and the wife shall have the right to divorce in  
8 accordance with this Code.

9

10 *Article 35. Rights and obligations of the husband.* — The husband shall  
11 fix the residence of the family. The court may exempt the wife from living with  
12 her husband on any of the following grounds:

13 (a) Her dower is not satisfied in accordance with the stipulations;

14 (b) The conjugal dwelling is not in keeping with her social standing or  
15 is, for any reason, not safe for the members of the family or her property; or

16 (c) Cruelty of the husband which may include habitual maltreatment of  
17 the wife and irrational or unfounded jealousy that may endanger her life or  
18 make it miserable, and such other acts which warrant divorce by *faskh* under  
19 Articles 52 and 53.

20

21 *Article 36. Rights and obligations of the wife.* — (1) The wife shall  
22 dutifully manage the affairs of the household. The husband shall be bound to  
23 purchase things necessary for the maintenance of the family. However, the  
24 wife may, when necessary, do the purchase, in which case the husband shall  
25 be bound to reimburse the expenses if he has not delivered the proper sum in  
26 advance.

27 (2) The wife may, with the consent of her husband, acquire any  
28 property by gratuitous title. However, if such property is from her relatives who  
29 are within the prohibited degrees of marriage, consent of her husband is not  
30 necessary. Similarly, the husband may not refuse consent to the wife in  
31 receiving awards, recognition, or merits for her occupation, profession, or any  
32 other lawful work or business.

33 (3) The wife may exercise any profession or occupation or engage in  
34 lawful business which is in keeping with Islamic modesty and virtue. However,

1 if the husband objects on the ground that his income is sufficient for the family  
2 according to its social standing or his opposition is based on serious and valid  
3 grounds, the matter shall be referred to the *Agama* Arbitration Council. For  
4 this purpose, either the wife or the husband may petition the court for the  
5 constitution of *Agama* Arbitration Council.

6 (4) The wife shall have the right to demand the satisfaction of her *mahr*.

7 (5) Unless otherwise stipulated in the marriage settlements, the wife  
8 retains ownership and administration of her exclusive property.

9 (6) The wife shall be entitled to equal and just treatment by the  
10 husband.

11

12 Section 6. - Property Relations Between Spouses.

13

14 *Article 37. How governed.* — The property relations between husband  
15 and wife shall be governed in the following order:

16 (a) By contract before, after, or at the time of the celebration of  
17 marriage;

18 (b) By the provisions of this Code; and

19 (c) By the prevailing custom.

20

21 *Article 38. Regime of property relations.* — The property relations  
22 between the spouses, in the absence of any stipulation to the contrary in the  
23 marriage settlements or any other contract, shall be governed by the regime  
24 of complete separation of property in accordance with this Code or by the  
25 principles of Islamic law and, in a supplementary manner, by the Civil Code of the  
26 Philippines or the Family Code of the Philippines, as the case may be.

27

28 *Article 39. Stipulation in the marriage settlements.* — Every stipulation  
29 in the marriage settlements or contract referred to in the preceding article  
30 shall be void and without effect whatsoever should the marriage not take  
31 place. However, stipulations that do not depend upon the contract of marriage  
32 shall be valid.

33

1            *Article 40. Ante-nuptial property.* — The wife shall not lose ownership  
2 and administration of all properties brought by her to the marriage in the  
3 absence of any written agreement to the contrary, and she may dispose of the  
4 same by deed or otherwise even without the consent of her husband.

5  
6            *Article 41. Exclusive property of each spouse.* — The following shall be  
7 the exclusive property of either spouse:

8            (a) Properties brought to the marriage by the husband or the wife;

9            (b) All income derived by either spouse from any employment,  
10 occupation or trade;

11           (c) Any money or property acquired by either spouse during marriage  
12 by lucrative title;

13           (d) The dower (*mahr*) of the wife and nuptial gifts to each spouse;

14           (e) Properties acquired by right of redemption, purchase, or exchange  
15 of the exclusive property of either; and

16           (f) All fruits of properties in the foregoing paragraphs.

17  
18           *Article 42. Ownership and administration.* — Each spouse shall own,  
19 possess, administer, enjoy and dispose of his or her exclusive estate even  
20 without the consent of the other. However, the court may, upon petition of  
21 either spouse, grant to the other the administration of such property.

22  
23           *Article 43. Household property.* — Household property which  
24 customarily pertains to or is used by either spouse shall be *prima*  
25 *facie* presumed to be the property of the said spouse.

26  
27           *Article 44. Right to sue and be sued.* — The wife may, independently of  
28 the husband, sue or be sued in the following cases:

29           (a) When the litigation is between husband and wife;

30           (b) If the suit concerns her exclusive property;

31           (c) If the litigation is incidental to her profession, occupation or  
32 business;

33           (d) If the litigation concerns the exclusive property of the husband, the  
34 administration of which has been transferred to her; or

1 (e) Such other appropriate cases as may be followed by the general  
2 principles of Islamic law and other laws.

3  
4  
5 CHAPTER III

6 Divorce

7 Section 1. Nature and Form.

8  
9 *Article 45. Definition and forms.* — Divorce is the formal dissolution of  
10 the marriage bond in accordance with this Code to be granted only after the  
11 exhaustion of all possible means of reconciliation between the spouses. It  
12 may be effected by:

13 (a) Repudiation of the wife by the husband (*ṭalāq*);

14 (b) Vow of continence by the husband (*īlā'*);

15 (c) Injurious assimilation of the wife by the husband (*dh̄ihār*);

16 (d) Acts of imprecation (*li'ān*);

17 (e) Redemption by the wife (*khul'*);

18 (f) Exercise by the wife of the delegated right to repudiate (*tafwīd*); or

19 (g) Judicial decree (*faskh*).

20 Notwithstanding this provision, the parties can agree to dissolve their  
21 marriage by divorce in accordance with Muslim law.

22  
23 *Article 46. Divorce by ṭalāq.* — (1) A divorce by *ṭalāq* may be effected  
24 by the husband in a single repudiation of his wife, in the presence of at least  
25 two competent witnesses, during her non-menstrual period (*ṭuhr*) within which  
26 he has totally abstained from carnal relation with her. Any number of  
27 repudiation made during one *ṭuhr* shall constitute only one repudiation and  
28 shall become irrevocable after the expiration of the prescribed *'iddah*.

29 (2) A husband who repudiates his wife, either for the first or second  
30 time, shall have the right to take her back (*rujū'*) within the  
31 prescribed *'iddah* by a resumption of cohabitation without the need of a new  
32 contract of marriage. Should he fail to do so, the repudiation shall become  
33 irrevocable (*ṭalāq ba'in sughrā*).

1            *Article 47. Divorce by ṭilā'.* — Where a husband makes a vow to abstain  
2 from any carnal relations (*ṭilā'*) with his wife and keeps such *ṭilā'* for a period of  
3 not less than four months, she may be granted a decree of divorce by the  
4 court after due notice and hearing.

5            *Article 48. Divorce by ḍḥiḥār.* — Where the husband has injuriously  
6 assimilated (*ḍḥiḥār*) his wife to any of his relatives within the prohibited  
7 degrees of marriage, they shall mutually refrain from having carnal relation  
8 until he shall have performed the prescribed expiation. The wife may ask the  
9 court to require her husband to perform the expiation or to pronounce a  
10 regular *ṭalāq* should he fail or refuse to do so, without prejudice to her right of  
11 seeking other appropriate remedies.

12  
13            *Article 49. Divorce by li`ān.* — Where the husband accuses his wife in  
14 court of adultery, a decree of perpetual divorce may be granted by the court  
15 after due hearing and after the parties shall have performed the prescribed  
16 acts of imprecation (*li`ān*).

17  
18            *Article 50. Divorce by khul'.* — The wife may, after having offered to  
19 return or renounce her dower or to pay any other lawful consideration for her  
20 release (*khul'*) from the marriage bond, petition the court for divorce. The  
21 court shall, in meritorious cases and after fixing the consideration, issue the  
22 corresponding decree.

23  
24            *Article 51. Divorce by tafwīd.* — If the husband has delegated (*tafwīd*)  
25 to the wife the right to effect a *ṭalāq* at the time of the celebration of the  
26 marriage or thereafter, she may repudiate the marriage and the repudiation  
27 would have the same effect as if it were pronounced by the husband himself.

28  
29            *Article 52. Divorce by faskh.* — The court may, upon petition of the  
30 wife, decree a divorce by *faskh* on any of the following grounds:

31            (a) Neglect or failure of the husband to provide support for the family  
32 for at least six consecutive months;

33            (b) Conviction of the husband by final judgment sentencing him to  
34 imprisonment for at least one year;

- 1 (c) Failure of the husband to perform for six months without reasonable  
2 cause his marital obligation in accordance with this code;
- 3 (d) Impotency of the husband;
- 4 (e) Insanity or affliction of the husband with an incurable disease which  
5 would make the continuance of the marriage relationship injurious to the  
6 family;
- 7 (f) Unusual cruelty of the husband as defined under the next  
8 succeeding article; or
- 9 (g) Any other cause recognized under Muslim law for the dissolution of  
10 marriage by *faskh* either at the instance of the wife or the proper *wali*.

11

12 *Article 53. Faskh on the ground of unusual cruelty.* — A decree  
13 of *faskh* on the ground of unusual cruelty may be granted by the court upon  
14 petition of the wife if the husband:

- 15 (a) Habitually assaults her or makes her life miserable by cruel conduct  
16 even if this does not result in physical injury;
- 17 (b) Associates with persons of ill-repute or leads an infamous life or  
18 attempts to force the wife to live an immoral life;
- 19 (c) Compels her to dispose of her exclusive property or prevents her  
20 from exercising her legal rights over it;
- 21 (d) Obstructs her in the observance of her religious practices; or
- 22 (e) Does not treat her justly and equitably as enjoined by Islamic law.

23

24 *Article 54. Effects of irrevocable talāq or faskh.* — A *talāq* or *faskh*, as  
25 soon as it becomes irrevocable, shall have the following effects:

- 26 (a) The marriage bond shall be severed and the spouses may contract  
27 another marriage in accordance with this Code;
- 28 (b) The spouses shall lose their mutual rights of inheritance;
- 29 (c) The custody of children shall be determined in accordance with  
30 Article 78 of this code;
- 31 (d) The wife shall be entitled to recover from the husband her whole  
32 dower in case the *talāq* has been effected after the consummation of the  
33 marriage, or one-half thereof if effected before its consummation, as provided  
34 for in Article 21 of this Code;

1 (e) The husband shall not be discharged from his obligation to give  
2 support in accordance with Article 67; and

3 (f) The conjugal partnership, if stipulated in the marriage settlements,  
4 shall be dissolved and liquidated.

5

6 *Article 55. Effects of other kinds of divorce.* — The provisions of the  
7 article immediately preceding shall apply to the dissolution of marriage by *īlā*,  
8 *dh̄ihār*, *li`ān* and *khul*, subject to the effects of compliance with the  
9 requirements of the Islamic law relative to such divorces.

10

11

## Section 2. - *`iddah*.

12

13 *Article 56. `iddah defined.* — *`iddah* is the period of waiting prescribed  
14 for a woman whose marriage has been dissolved by death or by divorce the  
15 completion of which shall enable her to contract a new marriage.

16

17 *Article 57. Period.* — (1) Every wife shall be obliged to  
18 observe *`iddah* as follows:

19 (a) In case of dissolution of marriage by death, four (4) months and ten  
20 (10) days counted from the death of her husband;

21 (b) In case of termination of a marriage by divorce, for three (3)  
22 monthly courses; or

23 (c) In case of a pregnant woman, for a period extending until her  
24 delivery.

25 (2) Should the husband die while the wife is observing *`iddah* for  
26 divorce, another *`iddah* for death shall be observed in accordance with  
27 paragraph 1(a).

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TITLE III  
Paternity and Filiation

*Article 58. Legitimacy, how established.* — Legitimacy of filiation is established by the evidence of a valid marriage between the father and the mother at the time of the conception of the child.

*Article 59. Legitimate children.* — (1) Children conceived in lawful wedlock shall be presumed to be legitimate. Whoever claims illegitimacy of or impugns such filiation must prove his allegation.

(2) Children born after six (6) months following the consummation of marriage or within two (2) years after the dissolution of the marriage shall be presumed to be legitimate. Against this presumption, no evidence shall be admitted other than that of the physical impossibility of access between the parents at or about the time of the conception of the child.

*Article 60. Children of subsequent marriage.* — Should the marriage be dissolved and the wife contracts another marriage after the expiration of her *'iddah*, the child born within six (6) months from the dissolution of the prior marriage shall be presumed to have been conceived during the former marriage, and if born thereafter, during the latter.

*Article 61. Pregnancy after dissolution.* — If, after the dissolution of marriage, the wife believes that she is pregnant by her former husband, she shall, within thirty (30) days from the time she became aware of her pregnancy, notify the former husband or his heirs of that fact. The husband or his heirs may ask the court to take measures to prevent a simulation of birth.

*Article 62. Rights of legitimate child.* — A legitimate child shall have the right:

(a) To bear the surname or first name of the father and the surname of the mother;

(b) To receive support from the father or, in his default, from his heirs in accordance with Articles 65 and 68; and



1 (c) To share in the legitime (*furūd*) and other successional rights which  
2 this Code recognizes in his favor.

3

4 *Article 63. Acknowledgment by father.* — Acknowledgment (*iqrār*) of a  
5 child by the father shall establish paternity and confer upon each the right to  
6 inherit from the other exclusively in accordance with Article 94, provided the  
7 following conditions are complied with:

8 (a) The acknowledgment is manifested by the father's acceptance in  
9 public that he is the father of the child who does not impugn it; and

10 (b) The relations do not appear impossible by reason of disparity in  
11 age.

12

13 *Article 64. Adoption.* — No adoption in any form shall confer upon any  
14 person the status and rights of a legitimate child under Muslim law, except  
15 that said person, may receive a gift (*hibah*).

16

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#### TITLE IV

19

#### Support (*Nafaqah*)

20

21 *Article 65. Support defined.* — Support (*nafaqah*) includes everything  
22 that is indispensable for sustenance, dwelling, clothing, medical  
23 attendance, and other basic needs of the person entitled to be  
24 supported according to the social and economic standing of the person  
25 obliged to give it. Support for education of the recipient shall  
26 extend until he/she completes his/her education, training, or vocation even  
27 beyond the age of majority.

28

29 *Article 66. Amount.* — The amount of support shall be in proportion to  
30 the resources of the giver and the needs of the recipient.

31

32 *Article 67. Support for wife and infant.* — (1) The wife shall be entitled  
33 to support during the marriage. In cases of divorce, (*ṭalāq*), her right shall be  
34 extended up to the expiration of the *'iddah*. However, in case the wife is

1 pregnant at the time of the separation, she shall be entitled to support until  
2 delivery.

3 (2) Any divorced nursing mother who continues to breastfeed her child  
4 for two years shall be entitled to support until the time of weaning.

5  
6 *Article 68. Support between ascendants and descendants.* — The  
7 ascendants and descendants shall be obliged to support each other in the  
8 order in which they are called to succeed by intestacy the person who has a  
9 right to claim support.

10

11 *Article 69. Payment.* — (1) The obligation to support shall be  
12 demandable from the time the recipient needs it for maintenance. However,  
13 it may be paid before or from the date it is extrajudicially demanded.

14 (2) Payment shall be made daily, weekly or monthly in advance, and  
15 when the recipient dies, his heirs shall not be obliged to return what he had  
16 received in advance.

17 (3) If the recipient is the wife, the rule established in the foregoing  
18 paragraph shall apply even though the marriage is dissolved.

19

20 *Article 70. Extinguishment of support.* — The obligation to support shall  
21 cease:

22 (a) Upon the death of the recipient;

23 (b) When the resources of the obligor have been so reduced that he  
24 cannot give the support without neglecting his own need and those of his  
25 family, except that in the case of the spouses, the husband, though needy, is  
26 obliged to support the wife; or

27 (c) When the recipient commits any act which would give rise to  
28 disqualification to inherit or denial of support under Muslim law.

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1 TITLE V  
2 Parental Authority  
3 CHAPTER I  
4 Nature and Effects  
5

6 *Article 71. Who exercises.* — (1) The father and the mother shall jointly  
7 exercise just and reasonable parental authority and fulfill their responsibility  
8 over their legitimate and acknowledged children. In case of disagreement, the  
9 father's decision shall prevail unless there is a judicial order to the contrary.

10 (2) The mother shall exercise parental authority over her children born  
11 out of wedlock, but the court may, when the best interests of the children so  
12 require, appoint a general guardian.

13 *Article 72. Duty to parents.* — (1) Children shall respect, revere, and  
14 obey their parents always unless the latter cast them into disbelief.

15 (2) Grandparents are likewise entitled to respect and reverence and  
16 shall be consulted whenever practicable by all members of the family on all  
17 important questions.

18  
19 *Article 73. Duty to children.* — (a) Every parent and every person  
20 exercising parental authority shall see to it that the rights of the children are  
21 respected, and their duties complied with, and shall particularly by precept  
22 and example, imbue them with religious and civic attachment to the ideal of  
23 permanent world peace.

24 (b) The parental duty and obligations over children under this Code  
25 shall be fulfilled by parents who contracted the marriage of their children  
26 under paragraphs (2) and (3) of Article 16 of this code until the children reach  
27 the age of twenty-one.

28  
29 *Article 74. Effects upon person of children.* — The parents have, with  
30 respect to their unemancipated children:

31 (a) The duty to support them, have them in their company, educate and  
32 instruct them in keeping with their means and represent them in all actions  
33 which shall redound to their benefits; and

1 (b) The power to correct, discipline, and punish them moderately when  
2 necessary.

3

4 *Article 75. Effects upon property of children.* — (1) The father, or in his  
5 absence the mother, shall be the legal administrator of the property of the  
6 child under parental authority. If the property is worth more than fifty thousand  
7 pesos, the father or the mother shall give a bond to be approved by the court.

8 (2) The court may appoint a guardian (*wasī*) in the absence of one who  
9 is natural or testamentary.

10

11 *Article 76. Parental authority non-transferable.* — Parental authority  
12 can neither be renounced nor transferred except as otherwise provided in this  
13 Code and the general principles of Islamic law.

14 *Article 77. Extinguishment of parental authority.* — (1) Parental  
15 authority terminates upon the death of the parents or the child, or upon  
16 emancipation.

17 (2) A child is considered emancipated when, upon reaching the age of  
18 maturity, he or she is capable of supporting himself/herself financially and is of  
19 sound mental discretion (*rushd*).

20 (3) Subject to Articles 72, 73, and 78, the widowed mother who  
21 contracts a subsequent marriage shall lose parental authority and custody  
22 over all children by the deceased husband unless the second husband is  
23 related to them within the prohibited degrees of consanguinity.

24 (4) The court may deprive a person of parental authority or suspend  
25 the exercise thereof if he treats his children with excessive harshness, gives  
26 them corrupting or immoral orders and counsel, or abandons them.

27

28

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## CHAPTER II

30

### Custody and Guardianship

31

32 *Article 78. Care and custody.* — (1) The care and custody of children  
33 below seven (7) years of age whose parents are divorced shall belong to the  
34 mother or, in her absence, to the maternal grandmother, the paternal

1 grandmother, the sister, and aunts. In their default, it shall devolve upon the  
2 father and the nearest paternal relatives. The minor above seven (7) years of  
3 age but below the age of puberty may choose the parent with whom he wants  
4 to stay.

5 (2) If in the application of the immediately preceding paragraph a  
6 determination of the best interest of the child or children becomes necessary,  
7 then such issue must be resolved in accordance with this Code or Muslim law.

8 (3) The unmarried daughter who has reached the age of puberty shall  
9 stay with the father; the son under the same circumstances shall stay with the  
10 mother.

11

12 *Article 79. Guardian for marriage (wali).* — The following persons shall  
13 have authority to act as guardian for marriage (*wali*) in the order of  
14 precedence:

15 (a) Father

16 (b) Paternal grandfather;

17 (c) Brother and other paternal relatives;

18 (d) Paternal grandfather's executor or nominee;

19 (e) In the absence of all the above, maternal grandfather, brother, or  
20 other maternal relatives in their order of preference.

21 (f) The court or any person or entity authorized by it.

22

23 *Article 80. Guardian of minor's property.* — The following persons shall  
24 exercise guardianship over the property of minors in the order of precedence:

25 (a) Father;

26 (b) Father's executor or nominee;

27 (c) Paternal grandfather;

28 (d) Paternal grandfather's nominee; or

29 (e) The court.

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TITLE VI  
Civil Registry  
CHAPTER I

Registry of Marriage, Divorce, and Conversion

*Article 81. District Registrar.* — The Clerk of Court of the Sharī`ah District Court shall, in addition to his regular functions, act as District Registrar of Muslim Marriages, Divorces, Revocations of Divorces, and Conversions within the territorial jurisdiction of said court. The Clerk of Court of the Sharī`ah Circuit Court shall act as Circuit Registrar of Muslim Marriages, Divorces, Revocations of Divorces, and Conversions within his jurisdiction.

*Article 82. Duties of District Registrar.* — Every District Registrar shall exercise supervision over Circuit Registrars in every Sharī`ah District. He shall, in addition to an entry book, keep and bind copies of certificates of Marriage, Divorce, Revocation of Divorce, and Conversion sent to him by the Circuit Registrars in separate general registers. He shall send copies in accordance with Act. No. 3753, as amended, to the office of the Civil Registrar-General.

*Article 83. Duties of Circuit Registrar.* — Every Circuit Registrar shall:

- (a) File every certificate of marriage (which shall specify the nature and amount of the dower agreed upon), divorce or revocation of divorce and conversion, and such other documents presented to him for registration;
- (b) Compile said certificates monthly, prepare and send any information required of him by the District Registrar;
- (c) Register conversions involving *Islām*;
- (d) Issue certified transcripts or copies of any certificate or document registered upon payment of the required fees;
- (e) Send to the District Registrar during the first ten days of each month a copy of the entries made during the previous month;
- (f) Index the same for easy reference and identification in case any information is required; and
- (g) Administer oaths, free of charge, for civil registry purposes.

1           *Article 84. Cancellation or Correction of Entry.* — Any entry in the  
2 District or Circuit Register may, upon verified petition of any interested party,  
3 be corrected upon order of the *Sharīah* District Court, subject to the  
4 provisions of the Rules of Court. Every Registrar shall be civilly responsible  
5 for any unauthorized alteration made in the registry to any person suffering  
6 damage thereby. However, the Registrar may exempt himself from such  
7 liability if he proves that he has taken every reasonable precaution to prevent  
8 the unlawful alteration.

9

10           *Article 85. Registration of revocation of divorce.* — Within seven days  
11 after the revocation of divorce by *rujū`*, the husband shall, with the wife's  
12 written consent, file a statement thereof with the Circuit Registrar in whose  
13 records that divorce was previously entered.

14

15           *Article 86. Legal effects of registration.* — The books making up the  
16 registry of marriage, divorce, revocation of divorce, conversion, and all other  
17 documents relating thereto shall be considered public documents and shall  
18 be *prima facie* evidence of the facts therein contained. However, nothing  
19 herein provided shall affect the intrinsic validity or invalidity of the acts  
20 registered.

21

22           *Article 87. Applicability of other civil registry law.* — To the extent not  
23 inconsistent with the provisions of this Code, the provisions of other registry  
24 laws governing other civil registrars shall be observed by the district or circuit  
25 registrars.

26

27

28

## CHAPTER II

29

### Other Acts Affecting Civil Status

30

31           *Article 88. Where registered.* — All other acts, events, or judicial  
32 decrees affecting civil status not mentioned in Chapter One of this Title shall  
33 be recorded in the existing civil registry of the city or municipality in  
34 accordance with special laws.

1 BOOK THREE  
2 Succession  
3 TITLE I  
4 General Provisions  
5

6 *Article 89. Succession defined.* — Succession is a mode of acquisition  
7 by virtue of which the estate of a person is transmitted to his heirs or others in  
8 accordance with this code.

9  
10 *Article 90. Successional rights, when vested.* — The rights to  
11 succession are transmitted from the moment of the death of the decedent.  
12 The right to succession of any heir who predeceases the decedent shall not  
13 be transmitted by right of representation to his own heirs.  
14

15 *Article 91. Requisites of succession.* — No settlement of the estate of a  
16 deceased person shall be effected unless:

- 17 (a) The death of the decedent is ascertained;  
18 (b) The successor is alive at the time of the death of the decedent; and  
19 (c) The successor is not disqualified to inherit.  
20

21 *Article 92. Inheritance (Mīrāth).* — The inheritance of a person includes  
22 all properties of any kind, movable or immovable, whether ancestral or  
23 acquired either by onerous or gratuitous title, as well as all transmissible rights  
24 and obligations at the time of his death and those that accrue thereto before  
25 partition.  
26

27 *Article 93. Disqualifications to succession.* — The following shall be  
28 disqualified to succeed:

29 (a) Those who have intentionally caused directly or indirectly the death  
30 of the decedent;

31 (b) Those who have committed any other act which constitutes a  
32 ground for disqualification to inherit under Islamic law; and

33 (c) Those who are so situated that they cannot inherit under Islamic  
34 law.



1            *Article 94. Succession from acknowledging person.* — Without  
2 prejudice to the order of succession of heirs, mutual rights of inheritance shall  
3 obtain:

4            (a) Between the acknowledging father and the acknowledged child;  
5 and

6            (b) Between the kinsman acknowledged through another person and  
7 the acknowledger.

8

9            *Article 95. Succession by walad al li`ān.* — A child who was the cause  
10 of the mother's having been divorced by *li`ān* shall have mutual rights of  
11 succession only with the mother and her relatives.

12

13            *Article 96. Succession between divorced persons.* — (1) The husband  
14 who divorces his wife shall have mutual rights of inheritance with her while  
15 she is observing her *`iddah*. After the expiration of the *`iddah*, there shall be  
16 no mutual rights of succession between them.

17            (2) The husband who, while in a condition of death-illness, divorces his  
18 wife shall not inherit from her, but she shall have the right to succeed him  
19 even after the expiration of her *`iddah*.

20

21            *Article 97. Succession by conceived child.* — A child conceived at the  
22 time of the death of the decedent shall be considered an heir provided it be  
23 born later in accordance with Article 10; its corresponding share shall be  
24 reserved before the estate is distributed.

25

26            *Article 98. Succession by absentee.* — The share of an heir who is  
27 missing or otherwise absent at the time of the death of the decedent shall be  
28 reserved:

29            (a) Until he reappears and claims it;

30            (b) Until he is proven dead; or

31            (c) Until the lapse of ten (10) years after which he shall be presumed  
32 dead by decree of the court.

33

1           *Article 99. Order of succession.* — The heirs of a decedent shall inherit  
2 in the following order:

- 3           (a) Sharers (*aṣḥāb al furūd*) shall be entitled to fixed shares;  
4           (b) Residuaries (*aṣḥāb al mīrāth*) shall be entitled to the residue;  
5           (c) In the absence of the foregoing, the distant kindred (*dhaw al arḥām*)  
6 who are blood relatives but are neither sharers nor residuaries; and  
7           (d) In default of the above, the acknowledged kinsman, universal  
8 legatee, or the public treasury (*bayt al māl*), in that order.

9  
10           *Article 100. Modes of Succession.* — Succession may be:

- 11           (a) By will (*waṣīyyah*);  
12           (b) By operation of this Code; or  
13           (c) By combination of both.

14  
15   TITLE II  
16   Testamentary Succession  
17   CHAPTER I  
18   Wills  
19

20           *Article 101. Will defined.* — A will (*waṣīyyah*) is a declaration whereby a  
21 person is permitted, with the formalities prescribed by law, to control the  
22 disposition after his death of not more than one-third (1/3) of his estate, if  
23 there are heirs, or the whole of it if there are no heirs or distant kindred.

24  
25           *Article 102. Formalities.* — (1) The making of a will is strictly a personal  
26 act; it cannot be left in whole or in part to the discretion of a third person or  
27 accomplished through the instrumentality of an agent.

28           (2) A will may be declared orally or in writing in a manner that shows  
29 clearly the intention of the testator to execute it in the presence of at least two  
30 (2) competent, credible and disinterested witnesses.

31  
32           *Article 103. Proof of will.* — (1) No nuncupative will shall pass any  
33 property of the decedent unless it is proved and allowed in accordance with a  
34 solemn oath or affirmation of all the witnesses who attested to its declaration.

1 (2) No will of any other kind, holographic or formal, shall pass any  
2 property unless it is proved and allowed in accordance with this Code.

3  
4 *Article 104. Testamentary waqf.* — An endowment for Islamic purposes  
5 to take effect after the death of the donor (*waqf bi al wasiyyah*) partakes of the  
6 nature of a testamentary disposition.

7  
8 *Article 105. Capacity to make a will.* — Any person of sound and  
9 disposing mind and who is not expressly prohibited by Islamic law may make  
10 a will. Persons of either sex under the age of puberty cannot make a will.

11  
12 *Article 106. Disposable third.* — (1) The testator, in his will, cannot  
13 dispose of more than one-third (1/3) of his estate. Any bequest in excess  
14 thereof shall not be given effect unless ratified by the heirs. In any case, the  
15 bequest must be accepted by the legatee.

16 (2) A bequest to any sharer or residuary shall not be valid unless  
17 ratified by the testator's heirs existing at the time of his death.

18  
19 *Article 107. Bequest by operation of law.* — Should the testator die  
20 without having made a bequest in favor of any child of his son who  
21 predeceased him, or who simultaneously dies with him, such child shall be  
22 entitled to one-third (1/3) of the share that would have pertained to the father if  
23 he were alive. The parent or spouse, who is otherwise disqualified to inherit in  
24 view of Article 93 (c) may, upon order of the Court, be granted one-third (1/3)  
25 of what he or she would have received without such disqualification.

26  
27 *Article 108. Revocation of will.* — Will may be expressly or impliedly  
28 revoked by the testator at any time before his death. Any waiver or restriction  
29 of this right shall be void.

30  
31 *Article 109. Partial invalidity of will.* — The invalidity of one of several  
32 provisions of a will shall not result in the invalidity of the others unless it is to  
33 be presumed that the testator would not have made such other provisions if  
34 the first invalid provision had not been made.

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TITLE III  
Legal Succession  
CHAPTER I  
Shares

*Article 110. Who are sharers.* — The following persons shall be entitled to the inheritance as sharers to the extent set forth in the succeeding articles:

(a) The husband, the wife;

(b) The father, the mother, the grandfather, the grandmother;

(c) The daughter and the son's daughter in the direct line;

(d) The full sister, the consanguine sister, the uterine sister and the uterine Brother.

*Article 111. Share of surviving husband.* — The husband surviving together with a legitimate child or a child of the decedent's son shall be entitled to one-fourth ( $1/4$ ) of the hereditary estate; should there be no such descendants, he shall inherit one-half ( $1/2$ ) of the estate.

*Article 112. Share of surviving wife.* — The wife surviving together with a legitimate child or a child of the decedent's son shall be entitled to one-eighth ( $1/8$ ) of the hereditary estate; in the absence of such descendants, she shall inherit one-fourth ( $1/4$ ) of the estate.

*Article 113. Share of surviving father.* — The father succeeding together with the legitimate son of the decedent or a son of the decedent's son shall be entitled, as a sharer, to one-sixth ( $1/6$ ) of the hereditary estate. The father who succeeds together with a legitimate daughter of the decedent or a daughter of the decedent's son shall inherit, as a sharer, one-sixth ( $1/6$ ) of the inheritance without prejudice to his share as residuary.

*Article 114. Share of surviving mother.* — The mother succeeding as sharer together with a child or a child of the decedent's son, or with two (2) or more brothers or sisters of the decedent, shall be entitled to one-sixth ( $1/6$ ) of

1 the hereditary estate. Should she survive without any such descendant or with  
2 only one brother or sister, she shall inherit one-third (1/3) of the estate.

3

4 *Article 115. Share of paternal grandfather.* — The paternal grandfather  
5 succeeding together with the child of the decedent or, in default thereof, with  
6 his descendants in the direct male line however distant, shall be entitled to  
7 one-sixth (1/6) of the hereditary estate. Should he survive with any sharer  
8 other than the brothers or sisters of the decedent, he shall be entitled to one-  
9 sixth (1/6) without prejudice to his right as a residuary.

10

11 *Article 116. Share of paternal grandmother.* — The paternal  
12 grandmother succeeding in default of the mother, father, or intermediate  
13 grandfather of the decedent shall be entitled, as a sharer, to one-sixth (1/6) of  
14 the hereditary estate.

15

16 *Article 117. Share of surviving daughter.* — (1) If the decedent leaves  
17 no son but one daughter, the latter shall be entitled to inherit, as a sharer,  
18 one-half (1/2) of the hereditary estate. Two or more daughters shall share  
19 equally two-thirds (2/3) thereof. Should one or more daughters survive with  
20 one or more sons of the decedent, the latter shall be entitled to double the  
21 share of the former.

22 (2) Should a lone daughter of the decedent survive together with his  
23 son's daughter, the two-thirds (2/3) share shall be divided between them, one-  
24 half (1/2) thereof to pertain to the former and one-sixth (1/6) of the latter.

25

26 *Article 118. Share of son's daughter.* — The son's daughter shall, in the  
27 absence of any child of the decedent, be entitled to one-half (1/2) of the  
28 hereditary estate. Two or more daughters of the decedent's son shall share  
29 the two-thirds (2/3) of the estate per capita.

30

31 *Article 119. Share of full sister.* — Should the decedent leave neither  
32 descendant, father, nor full brother, the full sister, shall be entitled as sharer to  
33 the extent of one-half (1/2) of the hereditary estate. Two or more full sisters  
34 shall inherit two-thirds (2/3) of the estate per capita.

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*Article 120. Share of consanguine sister.* — Should the decedent leave neither descendent, full brother nor full sister, the consanguine sister shall be entitled to one-half (1/2) of the hereditary estate. Two or more consanguine sisters shall inherit two-thirds (2/3) of the estate per capita.

*Article 121. Share of uterine brother or sister.* — The share of a uterine brother or sister shall be one-sixth (1/6) of the hereditary estate should there be no surviving descendant, father, paternal grandfather, or full brother and sister of the decedent. Two or more uterine brothers or sisters shall inherit one-third (1/3) of the estate per capita.

*Article 122. Participation of full brother.* — (1) One or more full brothers and sisters surviving together, or one or more consanguine brothers or sisters surviving together, shall participate in the hereditary estate, a brother to inherit double the share of a sister.

(2) The provision of the next succeeding article notwithstanding, the full brother shall, if nothing is left for him after the distribution of shares and he survives with uterine brothers, participate with the latter in the one-third (1/3) of the hereditary estate per capita.

*Article 123. Exclusion among heirs.* — The exclusion of heirs from the inheritance shall be governed by the following rules:

- (a) In the same line, the relative nearest in degree excludes the more remote.
- (b) Full-blood relatives exclude the consanguine and the uterine.
- (c) Whoever is related to the decedent through any person shall not inherit while the latter is living, except in the case of a mother concurring with her children.
- (d) Heirs who, in a particular case, do not succeed by reason of disqualification on any ground shall not exclude others.

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CHAPTER II  
Residuary Heirs

*Article 124. Residuaries.* — Any residue left after the distribution of the shares shall be partitioned among the residuaries in accordance with the following articles. An heir may succeed as residuary in his own right (*`aṣabaḥ bi al nafs*), in another's right (*`aṣabaḥ bi al ḡhayr*), or together with another (*`aṣabaḥ ma`a al ḡhayr*).

*Article 125. Residuaries in their own right.* — The following persons are residuaries in their own right:

(a) Male descendants of the decedent in the direct line, however, distant in degree;

(b) Male ascendants of the decedent in the direct line, however distant in degree;

(c) Full-blood or consanguine brothers of the decedent and their male descendants, however, distant in degree; and

(d) Full-blood or consanguine paternal uncles of the decedent and their male descendants, however distant in degree.

*Article 126. Residuaries in another's right.* — The following persons shall succeed as residuaries in another's right:

(a) Daughters surviving with the son of the decedent;

(b) Son's daughters surviving with their own brothers;

(c) Full sisters surviving with their full brothers; and

(d) Consanguine sisters surviving with their consanguine brothers.

*Article 127. Residuaries together with another.* — Full-blood or consanguine sisters, surviving with daughters of the decedent or with the son's daughters, however, distant in degree from the decedent, are residuaries together with another.

*Article 128. Preference among residuaries.* — Preference among residuaries shall be governed by the following rules:

1 (a) The residuary nearer in degree shall be preferred to the more  
2 remote of the same class.

3 (b) The residuary with full-blood relationship shall be preferred to those  
4 of the half-blood of the same degree of relationship in the same class.

5 (c) The residuaries of the same class, degree, and blood relationship  
6 shall share equally, subject to the rule of the male having a share double that  
7 of the female in proper cases.

8

9 *Article 129. Reduction of shares.* — If the totality of all the shares  
10 assigned to each of the sharers exceeds the whole inheritance, the shares  
11 shall be reduced proportionately.

12

13 *Article 130. Reversion of residue.* — If, after distributing the portions of  
14 the sharers, a residue is left in the inheritance and there is no surviving  
15 residuary heir, the same shall revert in its entirety to the lone sharer or to all  
16 the sharers in proportion to their respective shares. However, the husband or  
17 the wife shall not be entitled to any part of the reverted portion as long as  
18 there are other sharers or distant kindred.

19

20

21

### CHAPTER III

22

#### Distant Kindred (*Dhaw Al Arhām*)

23

24 *Article 131. Relatives included.* — Distant kindred includes the  
25 following:

26 (a) The daughter's children and the children of the son's daughter and  
27 their descendants;

28 (b) The excluded grandfather and the excluded grandmother;

29 (c) The sister's children, the brother's daughters, the sons of the uterine  
30 brother, and their descendants; and

31 (d) The paternal aunts, the uterine uncles, and the maternal aunts and  
32 uncles.

33



1            *Article 132. Extent and distribution of shares.* — In default of all sharers  
2 and residuaries, the distant kindred shall inherit the entire hereditary estate,  
3 the same to be distributed among them in accordance with Articles 123 and  
4 128.

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TITLE IV  
Settlement and Partition of Estate

10           *Article 133. Administration.* — The administration of the estate of a  
11 decedent shall, for purposes of settlement, vest at the time of his death in the  
12 executor appointed in the will or, in the absence thereof, in his heir or  
13 administrator to whom the court has granted letters of administration.

14

15           *Article 134. Governing school of law.* — (1) In every petition for probate  
16 of will or for the settlement of the estate of a decedent, all matters relating to  
17 the appointment of administrator, powers, and duties of administrator or  
18 executor, the court shall take into consideration the school of law (*madhhab*)  
19 of the decedent.

20           (2) If the decedent's *madhhab* is not known, the *Shāfi'ī* school of law  
21 may be given preference together with the special rules of procedure adopted  
22 pursuant to this Code.

23

24           *Article 135. Order of preference of claims.* — The estate of a decedent  
25 shall be applied to claims and charges in the following order:

26           (a) Reasonable funeral expenses;

27           (b) Unpaid dower;

28           (c) Support for the deceased's immediate dependents pending final  
29 distribution of the estate among heirs, which is deductible from their  
30 respective shares upon such distribution;

31           (d) Debts of the decedent which include unpaid taxes;

32           (e) Expenses for probate, administration, and other judicial expenses;

33           (f) Legacies to the extent of the disposable one-third; and

34           (g) Distribution of shares among heirs.

1           *Article 136. Liability of heirs.* — The liability of the heirs of a decedent  
2 for the payment of the latter's debts shall not exceed the hereditary estate.  
3 Each heir shall be liable only for the payment of the decedent's debt in  
4 proportion to his share.

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BOOK FOUR

ADJUDICATION AND SETTLEMENT OF DISPUTES AND RENDITION OF  
LEGAL OPINION

TITLE I

The *Sharī`ah* Courts

*Article 137. Sharī`ah Courts.* — As provided in the Bangsamoro Organic Law, *Sharī`ah* courts within the Bangsamoro territorial jurisdiction shall form part of the Philippine judicial system subject to the supervision of the Supreme Court. The regular courts within the Bangsamoro Autonomous Region shall continue to function under the supervision of the Supreme Court.

As provided in the Bangsamoro Organic Law, the Congress of the Philippines may create additional *Sharī`ah* courts in the Bangsamoro Autonomous Region upon the recommendation of the Supreme Court. It may also create *Sharī`ah* courts outside the Bangsamoro Autonomous Region in areas where a considerable number of Muslims reside.

CHAPTER I

*Sharī`ah* High Court

*Article 138. Creation and Jurisdictions.* — The *Sharī`ah* High Court as created by the Bangsamoro Organic Law within the Bangsamoro territorial jurisdiction shall be part of the Philippine judicial system. It shall exercise exclusive original jurisdiction over the following cases where either or both parties are Muslims, provided that the non-Muslim party voluntarily submits to its jurisdiction:

1 (a) All petitions for mandamus, prohibition, injunction, certiorari, habeas  
2 corpus, and all other auxiliary writs and processes in aid of its appellate  
3 jurisdiction; and

4 (b) All actions for annulment of judgment of Sharī`ah District Court.  
5

6 *Article 139. Appellate jurisdiction.* - The Sharī`ah High Court shall  
7 exercise exclusive appellate jurisdiction over cases under the jurisdiction of  
8 the Sharī`ah District Court within or outside the Bangsamoro Autonomous  
9 Region.  
10

11 *Article 140. Finality of decision.* - (1) The decision of the Sharī`ah High  
12 Court shall be final and executory except on questions of law which may be  
13 raised before the Supreme Court following the procedure for appeals from the  
14 court of appeals to the Supreme Court.

15 (2) Nothing contained herein shall affect the original and appellate  
16 jurisdiction of the Supreme Court as provided in the Constitution.  
17

18 *Article 141. Composition, Station, Qualifications of Justices of the*  
19 *Sharī`ah High Court, Compensation, Benefits, Tenure, and Privileges.* – The  
20 composition and station of the Sharī`ah High Court, the qualifications of the  
21 Justices thereto, and their compensation, benefits, tenure, and privileges shall  
22 be as provided in the Bangsamoro Organic Law.  
23  
24

## 25 CHAPTER II

### 26 Sharī`ah District Courts 27

28 *Article 142. Sharī`ah Judicial Districts.* — As constituted in Presidential  
29 Decree No. 1083, the Five special judicial districts, each having one Sharī`ah  
30 District Court presided over by one judge, are as follows:

31 (a) The First Sharī`ah District shall comprise the Province of Sulu;

32 (b) The Second Sharī`ah District, the Province of Tawi-Tawi;

1 (c) The Third Sharī`ah District, the Province of Basilan, Zamboanga del  
2 Norte and Zamboanga del Sur, and the Cities of Dipolog, Pagadian and  
3 Zamboanga;

4 (d) The Fourth Sharī`ah District, the provinces of Lanao del Norte and  
5 Lanao del Sur, and the Cities of Iligan and Marawi; and

6 (e) The Fifth Sharī`ah District, the Provinces of Maguindanao, North  
7 Cotabato and Sultan Kudarat, and the City of Cotabato.

8

9 *Article 143. Jurisdiction of the Sharī`ah District Courts.* – (1) The  
10 Sharī`ah District Courts in the Bangsamoro Autonomous Region shall  
11 exercise exclusive original jurisdiction over all cases enumerated in Section 6,  
12 Article X of the Bangsamoro Organic Law where either or both of the parties  
13 are Muslims: Provided, That the non- Muslim party voluntarily submits to its  
14 jurisdiction.

15 The Sharī`ah District Courts shall, under this Code, exercise exclusive  
16 original jurisdiction over:

17 (a) All cases involving custody, guardianship, legitimacy, and paternity  
18 and filiation arising under this Code;

19 (b) All cases involving disposition, distribution, and settlement of the  
20 estate of deceased Bangsamoro Muslims or Muslims who were residents of  
21 the Bangsamoro Autonomous Region, probate of wills, issuance of letters of  
22 administration, or appointment of administrators or executors regardless of  
23 the nature or the aggregate value of the property;

24 (c) Petitions for the declaration of absence and death for the  
25 cancellation or correction of entries in the Muslim Registries mentioned in Title  
26 VI of Book Two of this Code;

27 (d) All actions arising from customary and Sharī`ah compliant contracts  
28 in which the parties are Bangsamoro Muslims or Muslims residing in  
29 Bangsamoro Autonomous Region;

30 (e) All petitions for *mandamus*, prohibition, injunction, *certiorari*, *habeas*  
31 *corpus*, and all other auxiliary writs and processes;

32 (f) Petitions for the constitution of a family home, change of name, and  
33 commitment of an insane person to an asylum;

1 (g) All other personal and real actions not falling under the jurisdiction  
2 of the Shari`ah Circuit Courts wherein the parties involved are Bangsamoro  
3 Muslims or Muslims residing in Bangsamoro Autonomous Region, except  
4 those for forcible entry and unlawful detainer, which shall fall under the  
5 exclusive original jurisdiction of the Municipal Trial Court;

6 (h) All special civil actions for interpleader or declaratory relief wherein  
7 the parties are Bangsamoro Muslims or Muslims residing in the Bangsamoro  
8 Autonomous Region or the property involved belongs exclusively to Muslims  
9 and is located in the Bangsamoro Autonomous Region;

10 (i) All civil actions under Shari`ah law enacted by the Parliament  
11 involving real property in the Bangsamoro Autonomous Region where the  
12 assessed value of the property exceeds Four hundred thousand pesos  
13 (P400,000.00); and

14 (j) All civil actions, if they have not specified in an agreement which law  
15 shall govern their relations where the demand or claim exceeds Two hundred  
16 thousand pesos (P200,000.00).

17 (k) All actions for annulment of judgement of the Shari`ah Circuit Court.  
18

19 *Article 144. Appellate jurisdiction.* — (1) The Shari`ah District Court in  
20 the Bangsamoro Autonomous Region shall exercise appellate jurisdiction over  
21 all cases decided upon by the Shari`ah Circuit Courts in the Bangsamoro  
22 Autonomous Region within its territorial jurisdiction, as provided under Article  
23 144 of Presidential Decree No. 1083, as amended by the Bangsamoro  
24 Organic Law.

25 (2) The Shari`ah District Court shall decide every case appealed to it  
26 on the basis of the evidence and records transmitted as well as such  
27 memoranda, briefs or oral arguments as the parties may submit.  
28

29 *Article 145. Finality of decision.* — The decisions of the Shari`ah  
30 District Courts whether on appeal from the Shari`ah Circuit Court or not shall  
31 be final. Nothing herein contained shall affect the original and appellate  
32 jurisdiction of the Shari`ah High Court as provided in the Bangsamoro Organic  
33 Law and the Supreme Court as provided in the Constitution.  
34

1 *Article 146. Clerks and other subordinate employees. — Sharī`ah*  
2 *District Courts shall have the same officers and other personnel as those*  
3 *provided by law for Regional Trial Courts.*

4 *The pertinent provisions of the Judiciary Law regarding the number,*  
5 *qualifications, appointment, compensation, functions, duties, and other*  
6 *matters relative to the personnel of the Regional Trial Courts shall apply to*  
7 *those of the Sharī`ah District Courts.*

8  
9 *Article 147. Appointment, Qualifications, Tenure, Compensation of*  
10 *Judges of Sharī`ah District Courts, and Permanent Stations of these courts. —*  
11 *The appointment, qualifications, tenure, compensation of judges of Sharī`ah*  
12 *District Courts and their permanent stations shall be as provided in*  
13 *Presidential Decree No. 1083, as amended by the pertinent provisions of the*  
14 *Bangsamoro Organic Law.*

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16  
17 **CHAPTER III**  
18 **Sharī`ah Circuit Courts**  
19

20 *Article 148. Where established. — (1) Without prejudice to*  
21 *additional Sharī`ah courts in the Bangsamoro Autonomous Region or outside*  
22 *this region in areas where a considerable number of Muslims reside that*  
23 *Congress may create in accordance with the Bangsamoro Organic Law,*  
24 *the Sharī`ah Circuit Courts as established in Presidential Decree No. 1983 are*  
25 *as follows:*

- 26 (a) Six such courts in the Province of Sulu;  
27 (b) Eight in the Province of Tawi-Tawi;  
28 (c) Ten in and for the Provinces of Basilan, Zamboanga del Norte and  
29 Zamboanga del Sur, and the Cities of Dipolog, Pagadian, and Zamboanga;  
30 (d) Twelve in and for the Provinces of Lanao del Norte and Lanao del  
31 Sur and the Cities of Iligan and Marawi;  
32 (e) Fifteen in and for the Province of Maguindanao, North Cotabato and  
33 Sultan Kudarat and the City of Cotabato.

1           (2) The territorial jurisdiction of each of the Sharī`ah Circuit Courts shall  
2 be as fixed by the Supreme Court on the basis of geographical contiguity of  
3 the municipalities and cities concerned and their Muslim population.

4

5           *Article 149. Appointment, Qualifications, Tenure, Compensation of*  
6 *Judges of Sharī`ah Circuit Courts, and Place of sessions/stations of these*  
7 *courts.* – The appointment, qualifications, tenure, compensation of judges of  
8 Sharī`ah Circuit Courts and their permanent place of sessions/stations shall  
9 be as provided in Presidential Decree No. 1083 as amended by the pertinent  
10 provisions of the Bangsamoro Organic Law.

11

12           *Article 150. Clerks and Other Subordinate Employees.* - (1)  
13 The Sharī`ah Circuit Court shall have the same officers and other personnel  
14 as those provided by law for Municipal Circuit Courts.

15           (2) The pertinent provisions of the Judiciary Law regarding the number,  
16 qualifications, appointment, compensation, functions, duties, and other  
17 matters relative to the personnel of the Municipal Circuit Courts shall apply to  
18 those of the Sharī`ah Circuit Courts.

19

20           *Article 151. Jurisdiction of the Sharī`ah Circuit Courts.* – The Sharī`ah  
21 Circuit Courts in the Bangsamoro Autonomous Region shall exercise  
22 exclusive original jurisdiction over all cases enumerated in Section 5, Article X  
23 of the Bangsamoro Organic Law where either or both of the parties are  
24 Muslims: Provided, That the non- Muslim party voluntarily submits to its  
25 jurisdiction.

26           The Sharī`ah Circuit Courts shall, under this Code, exercise exclusive  
27 original jurisdiction over:

28           (a) All cases involving offenses defined and punished under this Code,  
29 where the act or omission has been committed in the Bangsamoro  
30 Autonomous Region;

31           (b) All civil actions and proceedings between parties who are  
32 Bangsamoro Muslims or Muslims residing in the Bangsamoro Autonomous  
33 Region or have been married in accordance with Article 13 of this Code,  
34 involving disputes relating to:

- 1 (1) Marriage;  
2 (2) Divorce;  
3 (3) Betrothal or breach of contract to marry;  
4 (4) Customary dower or *mahr*;  
5 (5) Disposition and distribution of property upon divorce;  
6 (6) Maintenance and support, and consolatory gifts;  
7 (7) Restitution of marital rights;  
8 (c) All cases involving disputes relative to communal properties;  
9 (d) All cases involving *ta`zīr* offenses defined and punishable under  
10 Sharī`ah law enacted by the Parliament punishable by *arresto menor* or the  
11 corresponding fine, or both;  
12 (e) All civil actions under Sharī`ah law enacted by the Parliament  
13 involving real property in the Bangsamoro Autonomous Region where the  
14 assessed value of the property does not exceed Four hundred thousand  
15 pesos (P400,000.00); and  
16 (f) All civil actions, if they have not specified in an agreement which law  
17 shall govern their relations, where the demand or claim does not exceed Two  
18 hundred thousand pesos (P200,000.00).

19  
20  
21 Chapter IV.

22 Sharī`ah Rules of Court  
23

24 *Article 152. Governing Rules.* - The High Court, Sharī`ah District  
25 Court, and the Sharī`ah Circuit Courts shall be governed by a Sharī`ah Rules  
26 of Court as the Supreme Court may promulgate. The existing Special Rules of  
27 Procedure in the Sharī`ah Courts shall continue to be in force and effect until  
28 the Supreme Court promulgates a new Sharī`ah Rules of Court.

29  
30 *Article 153. Applicability of other laws.* — The provisions of all laws  
31 relative to the Court of Appeals, Regional Trial Court, and Municipal Trial  
32 Courts shall, to the extent that they are not inconsistent with this Code, be  
33 applicable to the Sharī`ah High Courts, Sharī`ah District Court, and the  
34 Sharī`ah Circuit Courts respectively.



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TITLE II

The Arbitration Council

*Article 154. Constitution.* — (1) The *Sharī`ah* District Court or the *Sharī`ah* Circuit Court may, in appropriate cases, constitute an Arbitration Council in the manner specified in this Title.

(2) Subject to the discretion of the court, the arbitrator should be morally upright and is determined to undertake the arbitration process, considering the need to settle the dispute, the interest of the children, if any, and the third party involved.

*Article 155. Divorce by talāq and tafwīd.* — (1) Any Muslim male who has pronounced a *talāq* shall, without delay or within seven (7) days whichever is earlier, file with the Clerk of Court of the *Sharī`ah* Circuit Court of the place where his family resides a written notice of such fact and the circumstances attended thereto, after having served a copy thereof to the wife concerned. The *talāq* pronounced shall not become irrevocable until after the expiration of the prescribed *iddah*. The notice filed shall be conclusive evidence that *talāq* has been pronounced.

(2) Within seven days from receipt of notice, the Clerk of Court shall require each of the parties to nominate a representative. The representatives shall be appointed by the Court to constitute, together with the Clerk of Court as Chairman, an *Agama* Arbitration Council. The *Agama* Arbitration Council shall submit to the Court a report on the result of the arbitration, on the basis of which and such other evidence as may be allowed, the Court shall issue the corresponding order.

(3) The provisions of this article shall be observed should the wife exercise *tafwīd*.

*Article 156. Subsequent marriages.* — Any Muslim husband desiring to contract a subsequent marriage shall, before so doing, file a written notice thereof with the Clerk of Court of the *Sharī`ah* Circuit Court of the place where his family resides. Upon receipt of said notice, the Clerk shall serve a copy thereof to the wife or wives. Should any of them object, an *Agama* Arbitration

1 Council shall be constituted in accordance with the provisions of paragraph  
2 (2) of the preceding article. If the *Agama* Arbitration Council fails to obtain the  
3 wife's consent to the proposed marriage, the Court shall, subject to Article 27,  
4 decide whether or not to sustain her objection.

5

6 *Article 157. Other Civil and Criminal Actions Cognizable by the*  
7 *Arbitration Council.* - Subject to recognized exceptions, all other civil and  
8 minor criminal cases falling under the jurisdiction of the *Sharī`ah* District Court  
9 and the *Sharī`ah* Circuit Court may, upon order of the court, be settled  
10 amicably through the Arbitration Council.

11

12 *Article 158. Offenses against customary law.* — The *Sharī`ah* Circuit  
13 Court, in cases against customary law which can be settled without formal  
14 trial, may, at its discretion, direct the *Sharī`ah* Clerk of Court to constitute a  
15 council of not less than two nor more than four members, with him as  
16 chairman, to settle the case amicably.

17

18

### TITLE III

19

#### Other Relevant Legislations

20

21 *Article 159. Ta`zīr legislations.* – Laws pertaining to *ta`zīr* offenses and  
22 penalties that the Bangsamoro Parliament may enact in accordance with the  
23 Bangsamoro Organic Law are recognized in and made applicable insofar as  
24 relevant to this Code or its enforcement.

25

26 *Article 160. Commercial and Other Civil Actions.* – Laws pertaining to  
27 commercial and other civil actions that the Bangsamoro Parliament may enact  
28 in accordance with the Bangsamoro Organic Law are recognized in and made  
29 applicable insofar as relevant to this Code or its enforcement.

30

31 *Article 161. Creation of Offices.* – The *Sharī`ah* Public Assistance  
32 Office and the *Sharī`ah* Special Prosecution Service as created under the  
33 Bangsamoro Administrative Code, as well as the *Sharī`ah* Academy and the  
34 Office of the Bangsamoro Jurisconsult in Islamic Law that the Bangsamoro

1 Parliament may create, are recognized as institutions that are relevant to this  
2 Code or its enforcement.

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## BOOK FIVE

6

### Miscellaneous and Transitory Provisions

7

#### TITLE I - Muslim Holidays

8

9 *Article 162. Official Muslim holidays.* — The following are hereby  
10 recognized as legal Muslim holidays:

11 (a) *`ām Jadīd* (New Year), which falls on the first day of the first lunar  
12 month of *Muḥarram*;

13 (b) *Mawlid Al Nabī* (Birthday of the Prophet Muhammad), which falls on  
14 the twelfth day of the third lunar month of *Rabī` al Awwal*;

15 (c) *Laylah al Isrā' wa al Mi`rāj* (Nocturnal Journey and Ascension of the  
16 Prophet Muhammad), which falls on the twenty-seventh day of the seventh  
17 lunar month of *Rajab*;

18 (d) *īd Al Fitr* (*Hari Raya Puasa*), which falls on the first day of the tenth  
19 lunar month of *Shawwāl*, commemorating the end of the fasting season; and

20 (e) *īd Al Adhā* (*Hari Raya Haji*), which falls on the tenth day of the  
21 twelfth lunar month of *Dhū al Hijjah*.

22

23 *Article 163. Provinces and cities where officially observed.* — (1)  
24 Muslim holidays shall be officially observed in the Provinces of Basilan, Lanao  
25 del Norte, Lanao del Sur, Maguindanao, North Cotabato, Sultan Kudarat,  
26 Sulu, Tawi-Tawi, Zamboanga del Norte and Zamboanga del Sur, and in the  
27 Cities of Cotabato, Iligan, Marawi, Pagadian, and Zamboanga and in such  
28 other Muslim provinces and cities as may hereafter be created.

29 (2) Upon proclamation by the President of the Philippines, Muslim  
30 holidays may also be officially observed in other provinces and cities.

31

32 *Article 164. Dates of observance.* — The dates of Muslim holidays shall  
33 be determined by the Office of the President of the Philippines in accordance  
34 with the Muslim Lunar Calendar (*Hijrah*).

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*Article 165. Observance of Muslim employees.* — (1) All Muslim government officials and employees in places other than those enumerated under Article 163 shall also be excused from reporting to office in order that they may be able to observe Muslim holidays.

(2) The President of the Philippines may, by proclamation, require private offices, agencies, or establishments to excuse their Muslim employees from reporting for work during a Muslim holiday without reduction in their usual compensation.

TITLE II  
Communal Property

*Article 166. What constitute.* — The following are communal properties:

- (a) Customary heirloom, which shall include artifacts and ancestral implements or things of cultural value handed down from a common ancestor;
- (b) Ancestral property, which shall comprehend hallowed ancestral plot, ancestral shrine, royal court, and similar properties; and
- (c) Charitable trust property.

*Article 167. Administration or disposition.* — (1) Except as otherwise provided in this Code, communal property shall be administered or disposed of in accordance with Muslim law, 'ada, and special provisions of law.

(2) Any provision of existing law to the contrary notwithstanding, the trustee of any communal property shall be the person who is in lawful possession thereof, either personally or through an agent.

(3) The *Shari'ah* Circuit Court may appoint a trustee of a communal property when there is a dispute as to its custody, possession, or administration.

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TITLE III  
Customary Contracts

*Article 168. How construed.* — Any transaction whereby one person delivers to another any real estate, plantation, orchard or any fruit-bearing property by virtue of *sanda, sanla, arindao*, or similar customary contract, shall be construed as a mortgage (*rihān*) in accordance with Muslim law.

TITLE IV  
Conversions

*Article 169. Meaning of conversion to Islām.* - Conversion to *Islām* is a solemn personal affirmation of the oneness of *Allāh* and the Prophethood of *Muḥammad* and of the Islamic faith (*īmān*) as a complete system of life, which must originate from the heart, expressed by the tongue and performed by action.

*Article 170. Regulation on conversion.* - (1) No conversion of a minor below the age of eighteen (18) years shall be registered by the District or Circuit Registrar without the written consent or permission of the parents or guardian, except when such minor has been emancipated from parental authority in accordance with law.

(2) No conversion to *Islām* shall be registered by the District or Circuit Registrar without proper endorsement or validation in the case of conversion abroad by the *Bangsamoro Dār al Iftā'* or its authorized representative who shall ascertain the true profession of Islamic faith by the convert.

(3) The *Bangsamoro Dār al Iftā'* shall have the authority to *motu proprio* or upon request of any interested party investigate the truth or veracity of the profession of Islamic faith by the convert even after his or her conversion and, when so warranted, file a verified petition in the proper *Sharī'ah* court to cancel the registration of conversion.

1            *Article 171. Effect of registration of conversion to Islām.* — (1)  
2 Registration of a person's conversion to Islām, shall constitute a *prima*  
3 *facie* proof that he/she professes Islām.

4            (2) Whoever disputes the profession or renunciation of Islām by any  
5 person shall have the burden of proving the contrary.

6  
7            *Article 172. Effects of conversion.* — (1) The conversion to Islām of  
8 non-Muslim spouses residing in BARMM shall have the legal effect of ratifying  
9 their marriage as if the same had been performed in accordance with the  
10 provisions of this Code or Muslim law, provided that there is no legal  
11 impediment to the marriage under Muslim law.

12            (2) The conversion to Islām of a non-Muslim shall entitle him/her to  
13 funeral rights under Muslim law.

14            (3) The conversion to Islām of a non-Muslim shall have the effect of  
15 subjecting the settlement of his/her estate in accordance with Muslim law on  
16 succession as provided for in Book Three of this Code.

17  
18            *Article 173. Effect of change of religion.* — The change of religion by a  
19 Muslim shall not have the effect of extinguishing any obligation or liability  
20 whatsoever incurred prior to said change.

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23                            TITLE V  
24                            PENAL PROVISIONS  
25                            CHAPTER I  
26                            Rule on Bigamy  
27

28            *Article 174. Law applicable.* — The provisions of the Revised Penal  
29 Code relative to the crime of bigamy shall not apply to a person married in  
30 accordance with the provisions of this Code or, before its effectivity, under  
31 Muslim law.

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CHAPTER II  
Specific Offenses

*Article 175. Illegal solemnization of marriage.* — Any person who shall, without authority, solemnize any marriage purportedly under this Code, or shall do so in a manner contrary to the provisions thereof, shall be punished by *arresto menor* or a fine of not less than five thousand pesos (P5,000.00) but not more than forty thousand pesos (P40,000.00), or both, in the discretion of the court.

*Article 176. Marriage before expiration of `iddah.* — Any widow or divorced woman who, having been married under Muslim law or under this code, contracts another marriage before the expiration of the prescribed *`iddah* shall suffer the penalty of a fine not less than five thousand pesos (P5,000.00) but not exceeding forty thousand pesos (P40,000.00).

*Article 177. Offenses relative to subsequent marriage, divorce, and revocation of divorce.* — A person who fails to comply with the requirements of Articles 85, 155, and 156 of this Code shall be penalized by *arresto menor* or a fine of not less than ten thousand pesos (P10,000.00) but not more than forty thousand pesos (P40,000.00), or both, in the discretion of the court.

*Article 178. Failure to report for registration.* — Except as provided in the article immediately preceding, a person who knowingly fails to perform his duty under this Code to report for registration any fact concerning the civil status of persons shall be punished by a fine of not less than one thousand pesos (P1,000.00) but not more than five thousand pesos (P5,000.00).

*Article 179. Neglect of duty by registrars.* — Any district registrar or circuit registrar who fails to perform properly his duties in accordance with this Code shall be penalized in accordance with Section 18 of Act No. 3753.

1             Article 180. *Fraudulent or Simulation of Conversion.* — Any person  
2 who shall seek conversion to *Islām* by means of fraud or deceit or with evil  
3 motive shall be punished by *arresto menor* and a fine of not less than ten  
4 thousand pesos (P10,000.00) but not more than forty thousand pesos  
5 (P40,000.00). The same penalties shall be imposed upon any person who is  
6 guilty of simulation of conversion to *Islām*.

7  
8             Article 181. *Abetting Fraudulent or Simulation of Conversion.* — Any  
9 Clerk of Court or court personnel of the *Sharī'ah* Court or any person who  
10 commits any act of abetting the fraudulent or simulation of conversion to *Islām*  
11 as defined and penalized in the immediately preceding article shall suffer the  
12 penalty of *arresto menor* and a fine of not less than ten thousand pesos  
13 (P10,000.00) but not more than forty thousand pesos (P40,000.00).

14  
15                                    TITLE VI  
16                                    Transitory and Final Provisions  
17

18             Article 182. *Effect of code on past acts.* — (1) Acts executed prior to  
19 the effectivity of this Code shall be governed by the laws in force at the time of  
20 their execution, and nothing herein except as otherwise specifically provided,  
21 shall affect their validity or legality or operate to extinguish any right acquired  
22 or liability incurred thereby.

23             (2) A marriage contracted by a Bangsamoro Muslim male or Muslim  
24 male residing in BARMM prior to the effectivity of this code in accordance with  
25 non-Muslim law shall be considered as one contracted under Muslim law  
26 provided the spouses register their mutual desire to this effect.

27  
28             Article 183. *Applicability Clause.* — The Civil Code of the Philippines,  
29 the Family Code of the Philippines, the Rules of Court and other existing laws,  
30 insofar as they are not inconsistent with the provisions of this Code, shall be  
31 applied suppletorily.

32



1            *Article 184. Separability clause.* — If, for any reason, any article or  
2 provision of this Code is held to be invalid, the same shall not affect the other  
3 articles or provisions hereof.

4

5            *Article 185. Repealing clause.* — All laws, proclamations, orders, rules  
6 and regulations passed by the previous Regional Legislative Assembly, the  
7 Bangsamoro Parliament and/or issued by the previous Office of the Regional  
8 Governor or the Chief Minister of the Bangsamoro Autonomous Region in  
9 Muslim Mindanao, or any part thereof, inconsistent with the provisions of this  
10 Code are hereby correspondingly modified or repealed.

11

12            *Article 186. Effectivity.* — This Code shall take effect fifteen days after  
13 its publication in the Official Gazette of the Bangsamoro Parliament.

14

15            DONE in the City of Cotabato this \_\_ day of \_\_\_\_\_, twenty  
16 hundred and twenty-one A.D. corresponding to the \_\_ day of \_\_\_\_\_,  
17 fourteen hundred and forty-two of the Hijrah Calendar.

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19            Approved:

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