

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY

THIRD REGULAR SESSION

PROPOSED RESOLUTION NO. _____

Bangsamoro Autonomous Region in Muslim Mindanao
Parliament
BILLS AND INDEX DIVISION
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**RESOLUTION RESPECTFULLY URGING THE CONGRESS OF THE PHILIPPINES TO
CREATE AND ESTABLISH SHARI'A COURTS IN ADDITION TO THE EXISTING
SHARI'A COURTS IN THE PHILIPPINES**

WHEREAS, the Shari'a Courts were established under Presidential Decree 1083, otherwise known as the Code of Muslim Personal Laws of the Philippines, dated 4 February 1977, to provide for an effective administration and enforcement of Muslim personal laws among Muslims. The same law created two types of Shari'a Courts, the Shari'a District Courts (SDCs) and Shari'a Circuit Courts (SCCs);¹

¹SC UNDP: PHI/01/001, "INSTITUTIONAL STRENGTHENING OF THE SHARI'A JUSTICE SYSTEM (Phase 1) DRAFT FINAL REPORT", June 2004. Accessed at <https://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2012/12/sharia-final-report1.pdf> on September 15, 2021.

WHEREAS, the law sets forth the jurisdictional structure of the Shari'a Courts, defining and delineating their geographical jurisdiction and judicial functions. In terms of geographical jurisdiction, PD 1083 defined the localities in Mindanao that are to benefit from the judicial services of the Shari'a Courts. In terms of functional jurisdiction, the law likewise indicated the specific cases covered by Shari'a Courts, as well as the judicial services that they must render. In addition, unlike the regular courts, which have a general clientele, the Shari'a Courts are intended basically for Muslims as their sole clientele;²

WHEREAS, the geographical jurisdiction of a court identifies the areas (provinces, cities or municipalities) over which the court may perform its functions or deliver its services. There are, at present, 5 SDCs as prescribed under PD 1083 and the establishment of 51 SCCs in the 5 Shari'a Districts. Of the 51 authorized SCCs only 25 are operational. These 25 SCCs are providing judicial services to territorial jurisdictions originally intended to be served by 51 SCCs. The geographical jurisdictions of these courts are indicated below:³

Table 1
SHARIA DISTRICT COURTS, GEOGRAPHICAL JURISDICTION

SHARI'A DISTRICT	PERMANENT STATION	JURISDICTION	
		PROVINCE	CITY
First	Jolo, Sulu	Sulu	-
Second	Bongao, Tawi-Tawi	Tawi-Tawi	-
Third	Zamboanga City	Basilan Zamboanga del Norte Zamboanga del Sur	Dipolog Pagadian Zamboanga
Fourth	Marawi City	Lanao del Norte Lanao del Sur	Iligan Marawi
Fifth	Cotabato City	Maguindanao North Cotabato Sultan Kudarat	Cotabato

² Ibid. p. 5.

³ Ibid. p. 6.

Table 2
SHARI'A CIRCUIT COURTS, GEOGRAPHICAL JURISDICTION
AND STATUS OF OPERATIONALIZATION

SHARI'A DISTRICT	JURISDICTION		DISTRIBUTION		
	PROVINCE	CITY	TOTAL NUMBER	OPERATIONAL	NOT OPERATIONAL
First	Sulu	-	6	3	3
Second	Tawi-Tawi	-	8	1	7
Third	Basilan Zamboanga del Norte Zamboanga del Sur	Dipolog Pagadian Zamboanga	10	2	8
Fourth	Lanao del Norte Lanao del Sur	Iligan Marawi	12	12	0
Fifth	Maguindanao North Cotabato Sultan Kudarat	Cotabato	15	7	8
TOTALS			51	25	26

WHEREAS, in the Draft Final Report of the SC UNDP entitled “INSTITUTIONAL STRENGTHENING OF THE SHARI’A JUSTICE SYSTEM (Phase 1)⁴, as part of the overall judicial reform program, which has for its goal the strengthening of the independence and accountability of the Judiciary and the delivery of speedy, impartial, and quality justice to all, yield the geographical access issues, which provide as follows:

“The geographical distribution of the Shari’a courts indicates that there may be significant geographical access issues. Courts in the regions are mostly at the provincial level and would require distant and expensive transport within regions where poverty is more than 80%. There are no readily available statistics to indicate the rural – urban distribution of Muslim populations in provinces where the courts are located. This would have given a clearer picture of geographical access. Another issue is where do Muslims residing in regions not under the geographical jurisdiction of existing courts file their cases? Anecdotal information indicates that Muslims in Metro Manila have to file their cases in their home provinces. But the current court system has no mechanism for controlling the locations for case filing. The system is vulnerable to multiple forum shopping by Muslims outside of any court geographical jurisdiction.”

⁴ Ibid.

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WHEREAS, this observation was also lamented by Midas Marquez⁵ in an interview with the Business Mirror⁶ that the existing number of Sharia courts are not sufficient to efficiently handle and resolve disputes involving Muslim personal laws.

He said more Sharia courts are need to be established in other parts of the country, citing in particular Manila, Taguig, Baguio City and other areas where there are large Muslim population.

“There is a need to create Sharia courts in areas where there is a high concentration of Muslims.”;

WHEREAS, in addition, he also emphasized that a legislation is necessary in order to put up more Sharia courts as this would entail necessary funding;

WHEREAS, the Bangsamoro Organic Law⁷ has expanded the jurisdiction of the Shari’a Courts by providing under Section 5 and 6 of Article X, the following:

⁵ Jose Midas P. Marquez is the 14th Court Administrator of the Supreme Court for the lower courts since the creation of the Office of the Court Administrator in 1975

⁶<https://businessmirror.com.ph/2017/06/12/sharia-courts-then-and-now-2/>, accessed on September 15, 2021.

⁷REPUBLIC ACT No. 11054 otherwise known as “An Act Providing for the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao, Repealing for the Purpose Republic Act No. 6734, Entitled “An Act Providing for An Organic Act for the Autonomous Region in Muslim Mindanao,” As Amended by Republic Act No. 9054, Entitled “An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao”

The *Shari'ah* Circuit Courts in the Bangsamoro Autonomous Region 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:

- (a) All cases involving offenses defined and punishable under Presidential Decree No. 1083, where the act or omission has been committed in the Bangsamoro Autonomous Region;
- (b) All civil actions and proceedings between parties residing in the Bangsamoro Autonomous Region who are Muslims or have been married in accordance with Article 13 of Presidential Decree No. 1083, involving disputes relating to:
 - (1) Marriage;
 - (2) Divorce;
 - (3) Betrothal or breach of contract to marry;
 - (4) Customary dower or *mahr*;
 - (5) Disposition and distribution of property upon divorce;
 - (6) Maintenance and support, and consolatory gifts; and
 - (7) Restitution of marital rights;
- (c) All case involving disputes relative to communal properties;
- (d) All cases involving *ta'zir* offenses defined and punishable under *Shari'ah* law enacted by the Parliament punishable by *arresto menor* or corresponding fine, or both;
- (e) All civil actions under *Shari'ah* law enacted by the Parliament involving real property in the Bangsamoro Autonomous Region where assessed value of the property does not exceed Four hundred thousand pesos (₱400,000.00); and
- (f) All civil actions, if they have not specified in an agreement which law shall govern their relations, where the demand or claim does not exceed Two hundred thousand pesos (₱200,000.00).

“The *Shari'ah* District Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or

both are Muslims: *Provided*, that the non-Muslim party voluntarily submits to its jurisdiction:

- (a) All cases involving custody, guardianship, legitimacy, and paternity and filiation arising under Presidential Decree No. 1083;
- (b) All cases involving disposition, distribution, and settlement of the estate of deceased Muslims, probate of wills issuance of letters of administrators or executors regardless of the nature or the aggregate value of the property;
- (c) Petitions for the declaration of absence and death, and for the cancellation or correction of entries in the Muslim Registries mentioned in Title VI of Book Two of Presidential Decree No. 1083;
- (d) All actions arising from customary and *Shari'ah* compliant contracts in which the parties are Muslims, if they failed to specify the law governing their relations;
- (e) All petitions for *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and processes, in aid of its appellate jurisdiction;
- (f) Petition for the constitution of a family home, change of name, and commitment of an insane person to an asylum;
- (g) All other personal and real actions not falling under the jurisdiction of the Shari'ah Circuit Courts wherein the parties involved are Muslims, except those for forcible entry and unlawful detainer, which shall fall under the exclusive original jurisdiction of the Municipal Trial Court;
- (h) All special civil actions for interpleader or declaratory relief wherein the parties are Muslims residing in the Bangsamoro Autonomous Region or the property involved belongs exclusively to Muslim and is located in the Bangsamoro Autonomous Region;

- (i) All civil actions under *Shari'ah* law enacted by the Parliament involving real property in the Bangsamoro Autonomous Region where the assessed value of the property exceeds Four hundred thousand pesos (₱400,000.00); and
- (j) All civil actions, if they have not specified in the agreement which law shall govern their relations where the demand or claim exceeds Two hundred thousand pesos (₱200,000.00)."

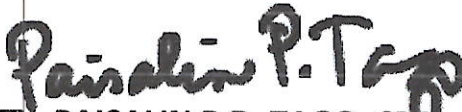
WHEREAS, furthermore, Section 2 of the same Article declares that Congress may create additional Shari'ah courts outside the territorial jurisdiction of BARMM which reads in part;

"The Congress of the Philippines may create additional *Shari'ah* courts in the Bangsamoro Autonomous Region upon the recommendation of the Supreme Court. It may also create *Shari'ah* courts outside the Bangsamoro Autonomous Region in areas considerable number of Muslims reside";

WHEREAS, in light of the factual circumstances aforecited, it is imperative for the Bangsamoro Government through the parliament to initiate the call for the creation and establishment of Shari'a Courts outside of BARMM specifically in areas where there is concentration of Muslims;

WHEREFORE, it is **RESOLVED**, as it is hereby **RESOLVED, TO RESPECTFULLY URGE THE CONGRESS OF THE PHILIPPINES TO CREATE AND ESTABLISH SHARI'A COURTS IN ADDITION TO THE EXISTING SHARI'A COURTS IN THE PHILIPPINES.**

Adopted _____


ATTY. PAISALIN P.D. TAGO, CPA
Member of the Parliament