

1 Republic of the Philippines  
2 Bangsamoro Autonomous Region in Muslim Mindanao  
3 Cotabato City

4  
5 Bangsamoro Transition Authority

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7  
8 PARLIAMENT RESOLUTION NO. 569

Bangsamoro Autonomous Region in Muslim Mindanao  
Parliament  
BILLS AND INDEX DIVISION  
**RECEIVED**  
Name: ADELAH DIPATUN Signature: [Signature]  
Date: 11/25/21 Time: 10:35 AM

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11 Introduced by MP Atty. Hamid Aminoddin D. Barra, Ph.D.  
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13  
14 **RESOLUTION**

15 **RESPECTFULLY APPEALING TO HIS EXCELLENCY PRESIDENT**  
16 **RODRIGO ROA DUTERTE TO VETO SENATE BILL NO. 1373 AND**  
17 **HOUSE BILL NO. 9943 OR THE ACT PROHIBITING AND DECLARING**  
18 **CHILD MARRIAGE AS ILLEGAL**

19  
20 **WHEREAS**, Section 17, Article XIV of the Constitution of the Philippines provides  
21 that "The State shall recognize, respect and protect the rights of indigenous cultural  
22 communities to preserve and develop their cultures, traditions, and institutions. It shall  
23 consider the rights in the formulation of national plans and policies";

24  
25 **WHEREAS**, Section 20, Article X of the Constitution provides that "The organic act  
26 of autonomous regions shall provide for legislative powers over, among others, personal,  
27 family, and property relations and such other matters as may be authorized by law for the  
28 promotion of the general welfare of the people of the region";

29  
30 **WHEREAS**, Section 2, Article IV of the Organic Law for the Bangsamoro  
31 Autonomous Region in Muslim Mindanao (Republic Act No. 11054) provides that "In the  
32 exercise of its right to self-governance, the Bangsamoro Autonomous Region is free to  
33 pursue its political, economic, social, and cultural development as provided for in this  
34 Organic Law.";

35  
36 **WHEREAS**, the Bangsamoro Government, mindful of the vital role of the youth in  
37 nation-building and the realization of the Bangsamoro people's aspirations, strongly  
38 protects and promotes the rights and welfare of the youth and condemns all injustice and  
39 oppression of these youth;

41           **WHEREAS**, the Bangsamoro Government – also mindful that Muslim marriage, as  
42 an inviolable social institution, is the foundation of the Muslim family and therefore its  
43 protection shall be guaranteed – acknowledges the Islamic significance of Muslim  
44 marriages among the Bangsamoro people including its youth;

45  
46           **WHEREAS**, on November 10, 2020, the Senate of the Philippines approved  
47 Senate Bill No. 1373 otherwise known as the Girls Not Brides Act of 2020; and on  
48 September 6, 2021, the counterpart bill in the House of Representatives, House Bill No.  
49 9943 prohibiting child marriage, was approved on its third and final reading;

50  
51           **WHEREAS**, the enrolled copy of the consolidated version of the said bills  
52 (hereinafter ‘enrolled bill criminalizing ‘child marriage’) is now before the Office of the  
53 President, awaiting approval as law upon signing by the President or lapsing into law after  
54 thirty days from receipt thereof without the President having acted on it;

55  
56           **WHEREAS**, the consolidated bills define “Child” as “persons below 18 years of  
57 age, or those unable to fully take care of themselves or protect themselves from abuse,  
58 exploitation or discrimination because of a physical or mental disability or condition” and  
59 “Child marriage” as “any marriage entered into where one or both parties are children as  
60 defined in the paragraph above, and solemnized in civil or church proceedings, or in any  
61 recognized traditional, cultural or customary manner.”;

62  
63           **WHEREAS**, the enrolled bill criminalizing ‘child marriage’ considers “child  
64 marriage” void from the beginning, and criminalizes child marriage, facilitation of child  
65 marriage, and solemnization of child marriage;

66  
67           **WHEREAS**, marriage, though by nature is a civil contract and a social institution,  
68 occupies a stature of sanctity in Islam. In Islam, it is no less than ALLAH *s.w.t.*, The  
69 Almighty, the Supreme Legislator, who institutionalized marriage where the spouses can  
70 live in tranquility, harmony, love, and mercy within the limits set by the *Shari’ah*. In the  
71 Holy Qur’an, ALLAH *s.w.t.* declares that the creation of spouses who will live in bond of  
72 marriage is among His signs;

73  
74           **WHEREAS**, one of the core values (*Maqasid*) of the *Shari’ah* is the preservation  
75 and protection of progeny for which marriage serves as one of the mechanisms by which  
76 this core value is fulfilled;

77

78           **WHEREAS**, sacred as it is, the act of entering marital bond in Islam is not only a  
79 civil act but more importantly a form of religious worship (*ibadah*) where the spouses can  
80 pursue and seek the pleasure of ALLAH (s.w.t.) by building and living an Islamic marital  
81 and family life;

82  
83           **WHEREAS**, as a social institution that occupies a stature of sanctity, marriage  
84 among Muslims is governed by the *Shari'ah*, including among others the provision on  
85 marriageable age, as articulated in the Code of Muslim Personal Laws of the Philippines  
86 (CMPL) that the 'nature, consequences and incidents [of marriage] are governed by this  
87 Code and the *Shari'ah*...';

88  
89           **WHEREAS**, the *Holy Qur'an*, a primary source of *Shari'ah*, decrees the  
90 marriageable age to be the age of puberty and discernment in Surah al-Nisa' 4:6, thus:  
91 "And test orphans until they reach the age of marriage [puberty]; if then you find sound  
92 judgment [discernment] in them, release their property to them.";

93  
94           **WHEREAS**, during the lifetime of Prophet Muhammad (s.a.w.), ALLAH (s.w.t.)  
95 willed that Prophet Muhammad (s.a.w) married *Aisha (r.a.)* who was **not** at least eighteen  
96 (18) years of age at the time of their marriage. This marriage constitutes *Sunnah* of the  
97 Prophet (s.a.w.), which is one of the two (2) primary sources of Islamic law;

98  
99           **WHEREAS**, since time immemorial, centuries before the establishment of the  
100 Republic of the Philippines, marriage involving parties who are less than eighteen (18)  
101 years of age has been consistently characterized with communal approval in the cultural  
102 and traditional mores and values of the Bangsamoro;

103  
104           **WHEREAS**, on the basis of the *Holy Qur'an* and the Prophetic *Sunnah*, marriages  
105 between Muslim parties who have attained the age of puberty and who are not necessarily  
106 at least eighteen (18) years of age are perfectly valid both in the *Shari'ah* and in the  
107 cultural and traditional practices of the Bangsamoro;

108  
109           **WHEREAS**, there is wisdom which the *Shari'ah* attaches to the permissibility of  
110 early marriage in Islam and this wisdom becomes evident when, under certain exceptional  
111 and rare circumstances, the best option to resort to is marriage even if one or both of the  
112 parties – who have attained marriageable age in Islam – are less than eighteen (18) years  
113 of age;

114

115           **WHEREAS**, to elaborate, early marriage governed by Islam is treated by the  
116           Bangsamoro as a solution to the problem of people at reproductive age cohabiting with  
117           each other and giving birth to children outside marriage. As such, early marriage in  
118           accordance with the *Shari'ah* is allowed rather as a necessary solution to the problem of  
119           immorality and fornication, pre-marital sexual relationships, and teen pregnancy outside  
120           marriage, not as a blanket invitation for the young people to marry at an early age;

121  
122           **WHEREAS**, in contrast, prohibiting early marriage may intensify immorality and  
123           fornication, cause the increase in the number of illegitimate children or teen pregnancies  
124           outside marriage as the prohibition has the effect of encouraging young people to engage  
125           in sexual relations even without the benefit of marriage under the law;

126  
127           **WHEREAS**, if these societal problems of immorality and fornication, pre-marital  
128           sex, and teen pregnancies outside marriage have become rampant and acceptable in  
129           non-Muslim communities or cultures, the Bangsamoro people and the rest of the Muslims  
130           in the Philippines must be spared as the legal system (Islamic law) of the Muslims  
131           recognized in the Code of Muslim Personal Laws of the Philippines is complete, precise  
132           and decisive in addressing these societal problems;

133  
134           **WHEREAS**, in accordance with the primary sources of Islamic law, the capacity to  
135           contract marriage is articulated in the Code of Muslim Personal Laws of the Philippines  
136           as follows:

137                     Art. 16. *Capacity to contract marriage.* – (1) Any Muslim male at least  
138                     fifteen years of age and any Muslim female of the age of puberty or upwards  
139                     and not suffering from any impediment under the provisions of this Code  
140                     may contract marriage. A female is presumed to have attained puberty upon  
141                     reaching the age of fifteen.

142                     (2) However, the Shari'ah District Court may, upon petition of a proper *wali*,  
143                     order the solemnization of the marriage of a female who though less than  
144                     fifteen, but not below twelve years of age, has attained puberty.

145                     (3) Marriage through a *wali* by a minor below the prescribed ages shall be  
146                     regarded as betrothal and may be annulled upon the petition of either party  
147                     within for years after attaining the age of puberty, provided no voluntary  
148                     cohabitation has taken place and the *wali* who contracted the marriage was  
149                     other than the father or paternal grandfather.”;

150  
151           **WHEREAS**, furthermore, a proposed legislation to ensure that unscrupulous  
152           parents and guardians can neither abuse their authority nor impose forced marriage to

153 their children was already filed in the BTA - Bangsamoro Parliament as Parliament Bill  
154 No. 146, which provides in part that “The Shari’ah District Court may, upon petition of the  
155 proper *wali*, **in exceptional cases**, order the solemnization of the marriage of a female  
156 who though less than fifteen but not below twelve years of age, has attained puberty.  
157 Marriage through a walī by a minor below the prescribed ages shall be regarded as  
158 betrothal and may be allowed only upon order of the court **after determination that it is**  
159 **in the best interest of the minor**. However, the marriage may be annulled upon the  
160 petition of either party within four (4) years after attaining the age of puberty even if the  
161 marriage was contracted by the father or paternal grandfather, provided that no voluntary  
162 cohabitation has taken place.”;

163  
164 **WHEREAS**, the recognition afforded the institution of marriage among the  
165 Bangsamoro communities and the Muslims in the Philippines in general, both as a cultural  
166 and as a religious practice, permeates the Code of Muslim Personal Laws of the  
167 Philippines. Thus, according to Presidential Code Commission that drafted the Code of  
168 Muslim Personal Laws of the Philippines, “The promulgation of this [Code] will assure the  
169 Muslim population that **they can live in accordance with their beliefs, interests,**  
170 **customs and traditions** without fear that their religion is being taken away from them.”;

171  
172 **WHEREAS**, it is indubitable that the institution of marriage and matters related  
173 thereto such as the marriageable age in Islam are part of the system of laws of the  
174 Muslims in the Philippines, which has gained recognition in the country ‘as part of the law  
175 of the land’;

176  
177 **WHEREAS**, “With this Code,” said the Presidential Code Commission, “the  
178 Muslims will be **further assured** that the **Government protects their religion and their**  
179 **rights**, that they are treated equally with the rest of the population and that they are  
180 integral part of the Filipino nation. The promulgation of this Code will indeed be a  
181 **significant step in the realization of “the aspiration of the Filipino Muslims to have**  
182 **their system of laws enforced in their communities.**”;

183  
184 **WHEREAS**, considering the foregoing, it is indubitable that the enrolled bill  
185 criminalizing ‘child marriage’ poses serious and overarching implications on marriage in  
186 Islam, whose institutionalization is through Divine Legislation in the Holy Qur’an, affirmed  
187 in practice by *Prophetic Sunnah*, legally given recognition through the Code of Muslim  
188 Personal Laws of the Philippines, and well-entrenched in the fabrics of the marital, family  
189 and cultural life of the Bangsamoro;

190

191           **WHEREAS**, it is inevitable that the enrolled bill criminalizing ‘child marriage’, if not  
192 disapproved, will directly collide with Islamic principles and practices relative to marriage  
193 considering that marriages otherwise valid in the *Shari’ah* will be declared and penalized  
194 as public crimes. This will restrict the religious freedom of the Muslims in the Philippines  
195 in the matter of marriage whose institution is established no less by ALLAH *s.w.t.* and the  
196 *Sunnah* of Prophet Muhammad (*s.a.w*);

197  
198           **WHEREAS**, similarly, the enrolled bill criminalizing ‘child marriage’, if not  
199 disapproved, will disrupt the sense of stability and distinctiveness of the cultural and  
200 traditional way of marital and family life of the Bangsamoro in apparent disregard of the  
201 intent and purpose of the enactment of the Code of Muslim Personal Laws of the  
202 Philippines;

203  
204           **WHEREAS**, moreover, the enrolled bill criminalizing ‘child marriage’, if it becomes  
205 a law, will likewise instigate litigations among immediate family members in the  
206 Bangsamoro communities at the expense of the family as a social institution whose unity  
207 and harmony the *Shari’ah* seeks to maintain and protect;

208  
209           **WHEREAS**, considering the different religious context and unique cultural and  
210 historical heritage of the Bangsamoro people in relation to marriage, Muslim marriages  
211 as presently recognized under the Code of Muslim Personal Laws of the Philippines  
212 should have been exempted from the coverage of the enrolled bill criminalizing ‘child  
213 marriage’;

214  
215           **WHEREAS**, considering the foregoing, it has become clear that to avoid the  
216 enrolled bill criminalizing ‘child marriage’ from colliding with the well-established institution  
217 of marriage in Islam as practiced by the Muslims in the Philippines in accordance with the  
218 *Holy Qur’an*, the *Sunnah* of Prophet *Muhammad (s.a.w.)*, their culture and tradition, and  
219 the Code of Muslim Personal Laws of the Philippines, the enrolled bill criminalizing ‘child  
220 marriage’ must be disapproved;

221  
222           **WHEREAS**, the disapproval of the enrolled bill criminalizing ‘child marriage’ will  
223 give the Congress of the Philippines an opportunity to review its provisions for the  
224 possibility of granting exemption to Muslim marriages solemnized in accordance with  
225 Islamic law or the Code of Muslim Personal Laws of the Philippines;

226  
227           **NOW, THEREFORE**, be it

228           **RESOLVED**, as it is hereby resolved, to respectfully appeal to His Excellency  
229 President Rodrigo Roa Duterte to veto Senate Bill No. 1373 and House Bill No. 9943 or  
230 the Act Prohibiting and Declaring Child Marriage as Illegal to give the Congress of the  
231 Philippines the opportunity to review the bill and grant exemption to Muslim marriages  
232 solemnized in accordance with Islamic law or the Code of Muslim Personal Laws of the  
233 Philippines;

234           **RESOLVED, FURTHER**, copies of this Resolution be furnished the Office of the  
235 President of the Philippines and the Office of the Chief Minister.

236           Adopted, \_\_\_\_\_.

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**ATTY. HAMID AMINODDIN D. BARRA, Ph.D.**  
Member of Parliament

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Certified Correct:

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**PROF. RABY B. ANGKAL**

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Secretary General

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251   Attested:

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**ATTY. ALI PANGALIAN M. BALINDONG**

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Speaker