

[PRESIDENTIAL DECREE No. 1083]

**A DECREE TO ORDAIN AND PROMULGATE A CODE RECOGNIZING THE SYSTEM OF FILIPINO MUSLIM LAWS, CODIFYING MUSLIM PERSONAL LAWS, AND PROVIDING FOR ITS ADMINISTRATION AND FOR OTHER PURPOSES**

WHEREAS, pursuant to the spirit of the provision of the Constitution of the Philippines that, in order to promote the advancement and effective participation of the National Cultural Communities in the building of the New Society, the State shall consider their customs, traditions, beliefs and interests in the formulation and implementation of its policies;

WHEREAS, Islamic law and its principles of equity and justice, to which the Filipino Muslim communities adhere, provide an essential basis for the fuller development of said communities in relation to the search for harmonious relations of all segments of the Filipino nation to enhance national unity;

WHEREAS, the enforcement, with the full sanction of the State, of the legal system of the Filipino Muslims shall redound to the attainment of a more ordered life amongst them;

WHEREAS, it is the intense desire of the New Society to strengthen all the ethno-linguistic communities in the Philippines within the context of their respective ways of life in order to bring about a cumulative result satisfying the requirements of national solidarity and social justice;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution of the Philippines, do hereby ordain and promulgate the "Code of Muslim Personal Laws of the Philippines" as part of the law of the land hereby decree:

**BOOK ONE  
GENERAL PROVISIONS**

**TITLE I  
TITLE AND PURPOSES OF CODE**

**Article 1. Title.** This decree shall be known as the "Code of Muslim Personal Laws of the Philippines."

**Article 2. Purpose of Code.** Pursuant to Section 11 of Article XV of the Constitution of the Philippines, which provides that "The State shall consider the customs, traditions, beliefs and interests of national cultural communities in the formulation and implementation of state policies," this Code:

- (a) Recognizes the legal system of the Muslims in the Philippines as part of the law of the land and seeks to make Islamic institutions more effective;
- (b) Codifies Muslim personal laws; and

(c) Provides for an effective administration and enforcement of Muslim personal laws among Muslims.

## **TITLE II.**

### **CONSTRUCTION OF CODE AND DEFINITION OF TERMS**

#### **Article 3.** *Conflict of provisions.*

- (1) In case of conflict between any provision of this Code and laws of general application, the former shall prevail.
- (2) Should the conflict be between any provision of this Code and special laws or laws of local application, the latter shall be liberally construed in order to carry out the former.
- (3) The provisions of this Code shall be applicable only to Muslims and nothing herein shall be construed to operate to the prejudice of a non-Muslim.

#### **Article 4.** *Construction and interpretation.*

- (1) In the construction and interpretation of this Code and other Muslim laws, the court shall take into consideration the primary sources of Muslim law.
- (2) Standard treatises and works on Muslim law and jurisprudence shall be given persuasive weight in the interpretation of Muslim law.

**Article 5.** *Proof of Muslim law and 'ada.* Muslim law and 'ada not embodied in this Code shall be proven in evidence as a fact. No 'ada which is contrary to the Constitution of the Philippines, this Code, Muslim law, public order, public policy or public interest shall be given any legal effect.

#### **Article 6.** *Conflict in Islamic schools of law.*

- (1) Should there be any conflict among the orthodox (Sunni) Muslim schools of law (Madhahib), that which is in consonance with the Constitution of the Philippines, this Code, public order, public policy and public interest shall be given effect.
- (2) The Muslim schools of law shall, for purposes of this Code, be the Hanfi, the Hanbali, the Maliki and the Shafi'i.

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

- (a) "Agama Arbitration Council" means a body composed of the Chairman and a representative of each of the parties to constitute a council to take all necessary steps for resolving conflicts between them.
- (b) "Ada" means customary law.

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

(d) "Ihram" signifies the state of ritual consecration of a person while on pilgrimage to Mecca.

(e) "Madhhab" (plural, Madhahib) means any of the four orthodox (Sunni) schools of Muslim law.

(f) "Month" means a period of thirty days.

(g) "Muslim" is a person who testifies to the oneness of God and the Prophethood of Muhammad and professes Islam.

(h) "Muslim Law" (Shari'a) refers to all the ordinances and regulations governing Muslims as found principally in the Qur'an and the Hadith.

(i) "Muslim Personal Law" includes all laws relating to personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations between spouses as provided for in this Code.

## **BOOK TWO PERSONS AND FAMILY RELATIONS**

### **TITLE I CIVIL PERSONALITY (SHAKHSIYAH MADANIYA)**

**Article 8.** *Legal capacity.* Juridical capacity, which is the fitness to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act, 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-ul-maut), penalty, prodigality, absence, family relations, alienage, insolvency, and trusteeship. The consequences of these circumstances are governed by this Code and other Islamic laws and, in a supplementary 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 years, it being unknown whether or not the absentee still lives, he shall be presumed dead.

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

## **TITLE II MARRIAGE AND DIVORCE**

### **Chapter One APPLICABILITY CLAUSE**

**Article 13.** *Application.*

(1) The provisions of this Title shall apply to marriage and divorce wherein both parties are Muslims, or wherein only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or this Code in any part of the Philippines.

(2) In case of marriage between a Muslim and a non-Muslim, solemnized not in accordance with Muslim law or this Code, the Civil Code of the Philippines shall apply.

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

### **Chapter Two**

## **MARRIAGE (NIKAH)**

**Section 1.** *Requisites of Marriage*

**Article 14.** *Nature.* Marriage is not only a civil contract but a social institution. Its nature, consequences and incidents are governed by this Code and the Shari'a 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 requisites.* No marriage contract shall be perfected unless the following essential requisites are complied with:

- (a) Legal capacity of the contracting parties;
- (b) Mutual consent of the parties freely given;
- (c) Offer (ijab) and acceptance (qabul) duly witnessed by at least two competent persons after the proper guardian in marriage (wali) has given his consent; and
- (d) Stipulation of customary dower (mahr) duly witnessed by two competent persons.

**Article 16.** *Capacity to contract marriage.*

(1) Any Muslim male at least fifteen 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 is presumed to have attained puberty upon reaching the age of fifteen.

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

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

**Article 17.** *Marriage ceremony.* No particular form of marriage ceremony is required but the ijab and the gabul in marriage shall be declared publicly in the presence of the person solemnizing the marriage and two competent witnesses. This declaration shall be set forth in an instrument in triplicate, signed or marked by the contracting parties and said witnesses, and attested by the person solemnizing the marriage. One copy shall be given to the contracting parties and another sent to the Circuit Registrar by the solemnizing officer who shall keep the third.

**Article 18.** *Authority to solemnize marriage.* Marriage may be solemnized:

- (a) By the proper wali of the woman to be wedded;
- (b) Upon authority of the proper wali, by any person who is competent under Muslim law to solemnize marriage; or
- (c) By the judge of the Shari'a District Court of Shari'a Circuit Court or any person designated by the judge, should the proper wali refuse without justifiable reason, to authorize the solemnization.

**Article 19.** *Place of solemnization.* Marriage shall be solemnized publicly in any mosque, office of the Shari'a judge, office of the District or Circuit Registrar, residence of the bride or her wali, or at any other suitable place agreed upon by the parties.

**Article 20.** *Specification of dower.* The amount or value of dower may be fixed by the contracting parties (marh-musamma) before, during, or after the celebration of the marriage. If the amount or the value thereof has not been so fixed, a proper dower (mahr-mithl) shall, upon petition of the wife, be determined by the court according to the social standing of the parties.

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

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

## **Section 2.** *Prohibited Marriages*

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

- (a) Of consanguinity;
- (b) Of affinity; and
- (c) Of fosterage.

**Article 24.** *Prohibition by consanguinity (tahrimjbin-nasab).* No marriage shall be contracted between:

- (a) Ascendants and descendants of any degree;
- (b) Brothers and sisters, whether germane, consanguine or uterine; and
- (c) Brothers or sisters and their descendants within the third civil degree.

**Article 25.** *Prohibition by affinity (tahrim-bill-musahara).* (1) No marriage shall be contracted between:

- (a) Any of the spouses and their respective affinal relatives in the ascending line and in the collateral line within the third degree;
- (b) Stepfather and stepdaughter when the marriage between the former and the mother of the latter has been consummated;
- (c) Stepmother and stepson when the marriage between the former and the father of the latter has been consummated; and

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

(2) The prohibition under this article applies even after the dissolution of the marriage creating the affinal relationship.

**Article 26.** *Prohibition due to fosterage (tahrīm-bir-rada'a).*

(1) No person may validly contract marriage with any woman who breastfed him for at least five times within two years after his birth.

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

**Section 3.** *Subsequent Marriages*

**Article 27.** *By a husband.* Notwithstanding the rule of Islamic law permitting a Muslim to have more than one wife but one wife unless he can deal with them with equal companionship and just treatment as enjoined by Islamic law and only in exceptional cases.

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

**Article 29.** *By divorcee.*

(1) No woman shall contract a subsequent marriage unless she has observed an 'idda of three monthly courses counted from the date of divorce. However, if she is pregnant at the time of the divorce, she may remarry only after delivery.

(2) Should a repudiated woman and her husband reconcile during her 'idda, he shall have a better right to take her back without need of a new marriage contract.

(3) Where it is indubitable that the marriage has not been consummated when the divorce was affected, no 'idda shall be required.

**Article 30.** *Marriage after three talaq.*

(1) Where a wife has been thrice repudiated (talaq bain lubra) on three different occasions by her husband, he cannot remarry her unless she shall have married another person who divorces her after consummation of the intervening marriage and the expiration of the 'idda.

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

#### **Section 4. *Batil and Fasi Marriages***

**Article 31. *Batil marriages.*** The following marriages shall be void (batil) from the beginning:

- (a) Those contracted contrary to Articles 23, 24, 25 and 26;
- (b) Those contracted in contravention of the prohibition against unlawful conjunction; and
- (c) Those contracted by parties one or both of whom have been found guilty of having killed the spouse of either of them.

**Article 32. *Fasid marriages.*** The following marriages shall be irregular (fasid) from their performance:

- (a) Those contracted with a female observing 'idda;
- (b) Those contracted contrary to Article 30;
- (c) Those wherein the consent of either party is vitiated by violence, intimidation, fraud, deceit or misrepresentation;
- (d) Those contracted by a party in a condition of death-illness (marad-ul-mault) without the same being consummated;
- (e) Those contracted by a party in a state of ihram; and
- (f) Mixed marriages not allowed under Islamic law.

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

- (a) Those referred to in Article 32(a), after the impediment has been removed;
- (b) Those referred to in Article 32(b), upon compliance with the requirement of Article 30;
- (c) Those referred to in Article 32(c), after the causes vitiating consent have ceased;
- (d) Those referred to in Article 32(d), in case the party recovers.
- (e) Those referred to in Article 32(e), when the party is no longer in a state of ihram; and

(f) Those referred to in Article 32(f), after conversion to a faith that could have made the marriage valid.

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

## **Section 5. *Rights and Obligations Between Spouses***

### **Article 34. *Mutual rights and obligations.***

(1) The husband and the wife are obliged to live together, observe mutual respect and fidelity, and render mutual help and support in accordance with this Code.

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

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

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

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

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

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

### **Article 36. *Rights and obligations of the wife.***

(1) The wife shall dutifully manage the affairs of the household. She may purchase things necessary for the maintenance of the family, and the husband shall be bound to reimburse the expenses, if he has not delivered the proper sum.

(2) The wife cannot, without the husband's consent, acquire any property by gratuitous title, except from her relatives who are within the prohibited degrees in marriage.

(3) The wife may, with her husband's consent, exercise any profession or occupation or engage in lawful business which is in keeping with Islamic modesty and virtue. However, if the husband refuses to give his consent on the ground that his income is sufficient for the family according to its social standing or his opposition is based on serious and valid grounds, the matter shall be referred to the Agama Arbitration Council.

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

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

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

### **Section 6. *Property Relations Between Spouses***

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

(a) By contract before or at the time of the celebration of marriage;

(b) By the provisions of this Code; and

(c) By custom.

**Article 38. *Regime of property relations.*** The property relations between the spouses, in the absence of any stipulation to the contrary in the marriage settlements or any other contract, shall be governed by the regime of complete separation of property in accordance with this Code and, in a suppletory manner, by the general principles of Islamic law and the Civil Code of the Philippines.

**Article 39. *Stipulation in the marriage settlements.*** Every stipulation in the marriage settlements or contract referred to in the preceding article shall be void and without effect whatsoever, should the marriage no take place. However, stipulations that do not depend upon the contract of marriage shall be valid.

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

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

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

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

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

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

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

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

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

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

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

- (a) When the litigation is between husband and wife;
- (b) If the suit concerns her exclusive property;
- (c) If the litigation is incidental to her profession, occupation or business;
- (d) If the litigation concerns the exclusive property of the husband, the administration of which has been transferred to her; or
- (e) Such other appropriate cases as may be followed by the general principles of Islamic law and other laws.

### **Chapter Three DIVORCE (TALAQ)**

#### **Section 1. Nature and Form**

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

- (a) Repudiation of the wife by the husband (talaq);
- (b) Vow of continence by the husband (ila);
- (c) Injurious assanilation of the wife by the husband (zihar);
- (d) Acts of imprecation (li'an);
- (e) Redemption by the wife (khul'); or
- (f) Exercise by the wife of the delegated right to repudiate (tafwld); or
- (g) Judicial decree (faskh).

**Article 46.** *Divorce by talaq.*

(1) A divorce by talaq may be affected by the husband in a single repudiation of his wife during her non-menstrual period (tuhr) within which he has totally abstained from carnal relation with her. Any number of repudiations made during one tuhr shall constitute only one repudiation and shall become irrevocable after the expiration of the prescribed 'idda.

(2) A husband who repudiates his wife, either for the first or second time, shall have the right to take her back (ruju) within the prescribed 'idda by resumption of cohabitation without need of a new contract of marriage. Should he fail to do so, the repudiation shall become irrevocable (Talaq bain sugra).

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

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

**Article 49.** *Divorce by li'an.* Where the husband accuses his wife in court of adultery, a decree of perpetual divorce may be granted by the court after due hearing and after the parties shall have performed the prescribed acts of imprecation (li'an).

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

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

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

- (a) Neglect or failure of the husband to provide support for the family for at least six consecutive months;
- (b) Conviction of the husband by final judgment sentencing him to imprisonment for at least one year;
- (c) Failure of the husband to perform for six months without reasonable cause his marital obligation in accordance with this code;

- (d) Impotency of the husband;
- (e) Insanity or affliction of the husband with an incurable disease which would make the continuance of the marriage relationship injurious to the family;
- (f) Unusual cruelty of the husband as defined under the next succeeding article; or
- (g) Any other cause recognized under Muslim law for the dissolution of marriage by faskh either at the instance of the wife or the proper wali.

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

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

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

- (a) The marriage bond shall be severed and the spouses may contract another marriage in accordance with this Code;
- (b) The spouses shall lose their mutual rights of inheritance;
- (c) The custody of children shall be determined in accordance with Article 78 of this code;
- (d) The wife shall be entitled to recover from the husband her whole dower in case the talaq has been effected after the consummation of the marriage, or one-half thereof if effected before its consummation;
- (e) The husband shall not be discharged from his obligation to give support in accordance with Article 67; and
- (f) The conjugal partnership, if stipulated in the marriage settlements, shall be dissolved and liquidated.

**Article 55.** *Effects of other kinds of divorce.* The provisions of the article immediately preceding shall apply to the dissolution, of marriage by *ila*, *zihar*, *li'an* and *khul'*, subject to the effects of compliance with the requirements of the Islamic law relative to such divorces.

## **Section 2.** 'Idda

**Article 56.** *'Idda defined.* 'Idda is the period of waiting prescribed for a woman whose marriage has been dissolved by death or by divorce the completion of which shall enable her to contract a new marriage.

**Article 57.** *Period.*

(1) Every wife shall be obliged to observe 'idda as follows:

- (a) In case of dissolution of marriage by death, four months and ten days counted from the death of her husband;
- (b) In case of termination of marriage by divorce, for three monthly courses; or
- (c) In case of a pregnant women, for a period extending until her delivery.

(2) Should the husband die while the wife is observing 'idda for divorce, another 'idda for death shall be observed in accordance with paragraph 1(a).

## **TITLE III PATERNITY AND FILIATION**

**Article 58.** *Legitimacy, how established.* Legitimacy of filiation is established by evidence of 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 months following the consummation of marriage or with two 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 'IDDA, the child born within six 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 later.

**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 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 surnames of the father and 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
- (c) To share in the legitimate (furud) and other successional rights which this Code recognizes in his favor.

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

- (a) The acknowledgment is manifested by the father's acceptance in public that he is the father of the child who does not impugn it; and
- (b) The relations does not appear impossible by reason of disparity in age.

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

#### **TITLE IV SUPPORT (NAFAQA)**

**Article 65.** *Support defined.* Support (nafaqa) includes everything that is indispensable for sustenance, dwelling, clothing and medical attendance according to the social standing of the person obliged to give it, and the education of the person entitled to the support until he completes his education, training, or vocation even beyond the age of majority.

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

**Article 67.** *Support for wife and infant.*

- (1) The wife shall be entitled to support during the marriage. In cases of divorce, (talaq), her right shall be extended up to the expiration of the 'idda. However, in case the wife is pregnant at the time of the separation, she shall be entitled to support until delivery.
- (2) Any divorced nursing mother who continues to breastfeed her child for two years shall be entitled to support until the time of weaning.

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

**Article 69.** *Payment.*

(1) The obligation to support shall be demandable from the time the recipient needs it for maintenance, but it shall not be paid except from the date it is extrajudicially demanded.

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

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

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

(a) Upon the death of the recipient;

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

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

## **TITLE V PARENTAL AUTHORITY**

### **Chapter One NATURE AND EFFECTS**

**Article 71.** *Who exercises.*

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

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

**Article 72.** *Duty to parents.*

(1) Children shall respect, revere, and obey their parents always unless the latter cast them into disbelief.

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

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

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

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

(b) The power to correct, discipline, and punish them moderately.

**Article 75. *Effects upon property of children.***

(1) The father, or in his absence the mother, shall be the legal administrator of the property of the child under parental authority. If the property is worth more than five thousand pesos, the father or the mother shall give a bond to be approved by the court.

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

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

**Article 77. *Extinguishment of parental authority.***

(1) Parental authority terminates upon the death of the parents or the child, or upon emancipation.

(2) Subject to Article 78, the widowed mother who contracts a subsequent marriage shall lose parental authority and custody over all children by the deceased husband, unless the second husband is related to them within the prohibited degrees of consanguinity.

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

## **Chapter Two**

### **CUSTODY AND GUARDIANSHIP**

**Article 78.** *Care and custody.*

(1) The care and custody of children below seven years of age whose parents are divorced shall belong to the mother or, in her absence, to the maternal grandmother, the paternal grandmother, the sister and aunts. In their default, it shall devolve upon the father and the nearest paternal relatives. The minor above seven years of age but below the age of puberty may choose the parent with whom he wants to stay.

(2) The unmarried daughter who has reached the age of puberty shall stay with the father; the son, under the same circumstances, shall stay with the mother.

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

- (a) Father
- (b) Paternal grandfather;
- (c) Brother and other paternal relatives;
- (d) Paternal grandfather's executor or nominee; or
- (e) The court.

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

- (a) Father;
- (b) Father's executor or nominee;
- (c) Paternal grandfather;
- (d) Paternal grandfather's nominee; or
- (e) The court.

**TITLE VI  
CIVIL REGISTRY**

**Chapter One  
REGISTRY OF MARRIAGE, DIVORCE AND CONVERSIONS**

**Article 81.** *District Registrar.* The Clerk of Court of the Shari' a 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 Shari'a 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 Shari'a 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 Islam;
- (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.

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

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

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

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

## **Chapter Two OTHER ACTS AFFECTING CIVIL STATUS**

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

## **BOOK THREE SUCCESSION**

### **TITLE I GENERAL PROVISIONS**

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

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

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

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

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

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

- (a) Those who have intentionally caused directly or indirectly the death of the decedent;
- (b) Those who have committed any other act which constitutes a ground disqualification to inherit under Islamic law; and
- (c) Those who are so situated that they cannot inherit under Islamic law.

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

- (a) Between the acknowledging father and the acknowledged child; and
- (b) Between the kinsman acknowledged through another person and the acknowledger.

**Article 95.** *Succession by illegitimate child.* A child who was the cause of the mother's having been divorced by li'an shall have mutual rights of succession only with the mother and her relatives.

**Article 96.** *Succession between divorced persons.*

- (1) The husband who divorces his wife shall have mutual rights of inheritance with her while she is observing her 'idda. After the expiration of the 'idda, there shall be no mutual rights of succession between them.
- (2) The husband who, while in a condition of death-illness, divorces his wife shall not inherit from her, but she shall have the right to succeed him even after the expiration of her 'idda.

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

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

- (a) Until he reappears and claims it;
- (b) Until he is proven dead; or
- (c) Until the lapse of ten years after which he shall be presumed dead by decree of the court.

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

- (a) Sharers (ashab-ul-furud) shall be entitled to fixed shares;

(b) Residuaries (ashab-ul-mirath) shall be entitled to the residue;

(c) In the absence of the foregoing, the distant kindred (dhaw-ul-arham) who are blood relatives but are neither sharers nor residuaries; and

(d) In default of the above, the acknowledged kinsman, universal legatee, or the public treasury (bait-ul-mal), in that order.

**Article 100.** *Modes of Succession.* Succession may be:

(a) By will (wasiya);

(b) By operation of this Code; or

(c) By combination of both.

## **TITLE II TESTAMENTARY SUCCESSION**

### **Chapter One WILLS**

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

**Article 102.** *Formalities.*

(1) The making of a will is strictly a personal act; it cannot be left in whole or in part to the discretion of a third person or accomplished through the instrumentality of an agent.

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

**Article 103.** *Proof of will.*

(1) No nuncupative will shall pass any property of the decedent unless it is proved and allowed in accordance with a solemn oath or affirmation of all the witnesses who attested to its declaration.

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

**Article 104.** *Testamentary wagf.* An endowment for Islamic purposes to take effect after the death of the donor (wagf-bill-wasiya) partakes of the nature of a testamentary disposition.

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

**Article 106.** *Disposable third.*

(1) The testator, in his will, cannot dispose of more than one-third of his estate. Any bequest in excess thereof shall not be given effect unless ratified by the heirs. In any case, the bequest must be accepted by the legatee.

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

**Article 107.** *Bequest by operation of law.* Should the testator die without having made a bequest in favor of any child of his son who predeceased him, or who simultaneously dies with him, such child shall be entitled to one-third of the share that would have pertained to the father if he were alive. The parent or spouse, who is otherwise disqualified to inherit in view of Article 93 (c), shall be entitled to one-third of what he or she would have received without such qualification.

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

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

### **TITLE III LEGAL SUCCESSION**

#### **Chapter One 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 of the hereditary estate; should there be no such descendants, he shall inherit one-half 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 of the hereditary estate; in the absence of such descendants, she shall inherit one-fourth 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 sharer, to one-sixth 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 sharer, one-sixth 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 or more brothers or sisters of the decedent, shall be entitled to one-sixth of the hereditary estate. Should she survive without any such descendant or with only one brother or sister, she shall inherit one-third of the estate.

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

**Article 116.** *Share of paternal grandmother.* The paternal grandmother succeeding in default of the mother, father, or intermediate grandfather of the decedent shall be entitled, as sharer, to one-sixth of the hereditary estate.

**Article 117.** *Share of surviving daughter.*

(1) If the decedent leaves no son but one daughter, the latter shall be entitled to inherit, as sharer, one-half of the hereditary estate. Two or more daughters shall share equally two-thirds thereof. Should one or more daughters survive with one or more sons of the decedent, the latter shall be entitled to double the share of the former.

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

**Article 118.** *Share of son's daughter.* The son's daughter shall, in the absence of any child of the decedent, be entitled to one-half of the hereditary estate. Two or more daughters of the decedent's son shall share the two-thirds of the estate per capita.

**Article 119.** *Share of full sister.* Should the decedent leave neither descendant, father, nor full brother, the full sister, shall be entitled as sharer to the extent of one-half of the hereditary estate. Two or more full sisters shall inherit two-thirds of the estate per capita.

**Article 120.** *Share of consanguine sister.* Should the decedent leave neither descendant, full brother, nor full sister, the consanguine sister shall be entitled to one-half of the hereditary estate. Two or more consanguine sisters shall inherit two-thirds 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 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 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 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.

## **Chapter Two 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 (asaba-bin-nafs), in another's right (asaba-bil-ghair), or together with another (asaba-ma'al-ghair).

**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:

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

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

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

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

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

**Chapter Three**  
**DISTANT KINDRED (DHAW-UL-ARHAM)**

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

- (a) The daughter's children and the children of the son's daughter and their descendants;
- (b) The excluded grandfather and the excluded grandmother;
- (c) The sister's children, the brother's daughters, the sons of the uterine brother, and their descendants; and
- (d) The paternal aunts, the uterine uncles and the maternal aunts and uncles.

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

**TITLE IV**  
**SETTLEMENT AND PARTITION OF ESTATE**

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

**Article 134.** *Governing school of law.*

- (1) In every petition for probate of will or for the settlement of the estate of a decedent, all matters relating to the appointment of administrator, powers and duties of administrator or executor, the court shall take into consideration the school of law (madhhab) of the decedent.
- (2) If the decedent's madhhab is not known, the Shafi'i school of law may be given preference together with the special rules of procedure adopted pursuant to this Code.

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

- (a) unpaid taxes;
- (b) reasonable funeral expenses;
- (c) the expenses for probate, administration and other judicial expenses;
- (d) the debts of the decedent;

- (e) the legacies to the extent of the disposable one-third;
- (f) the distribution of shares among heirs; and
- (g) unpaid dower.

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

**BOOK FOUR**  
**ADJUDICATION AND SETTLEMENT OF DISPUTES AND RENDITION OF LEGAL**  
**OPINIONS**

**TITLE I**  
**THE SHARI'A COURTS**

**Article 137.** *Creation.* There are hereby created as part of the judicial system, courts of limited jurisdiction, to be known respectively as Shari'a District Courts and Shari'a Circuit Courts, which shall exercise powers and functions in accordance with this Title.

Shari'a courts and the personnel thereof shall be subject to the administrative supervision of the Supreme Court.

**Chapter One**  
**SHARI'A DISTRICT COURTS**

**Article 138.** *Shari'a judicial districts.* Five special judicial districts, each to have one Shari'a District Court presided over by one judge, are constituted as follows:

- (a) The First Shari'a District shall comprise the Province of Sulu;
- (b) The Second Shari'a District, the Province of Tawi-Tawi;
- (c) The Third Shari'a District, the Province of Basilan, Zamboanga del Norte and Zamboanga del Sur, and the Cities of Dipolog, Pagadian and Zamboanga;
- (d) The Fourth Shari'a District, the provinces of Lanao del Norte and Lanao del Sur, and the Cities of Iligan and Marawi; and
- (e) The Fifth Shari'a District, the Provinces of Maguindanao, North Cotabato and Sultan Kudarat, and the City of Cotabato;

**Article 139.** *Appointment of judges.* The judicial function in the Shari'a District Courts shall be vested in Shari'a District judges to be appointed by the President of the Philippines.

**Article 140. *Qualifications.*** No person shall be appointed Shari'a District judge unless, in addition to the qualifications for judges of Courts of First Instance fixed in the Judiciary Law, he is learned in Islamic law and jurisprudence.

**Article 141. *Tenure.*** Shari'a District judges shall be appointed to serve during good behavior until they reach the age of sixty-five years, or become incapacitated to discharge the duties of their office, unless sooner removed for the same causes and in the same manner provided by law for judges of Courts of First Instance.

**Article 142. *Compensation.*** Shari'a District judges shall receive the same compensation and enjoy the same privileges as the judges of Courts of First Instance.

**Article 143. *Original jurisdiction.***

(1) The Shari'a District Court shall have exclusive original jurisdiction over:

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

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(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 this Code;

(d) All actions arising from customary contracts in which the parties are Muslims, if they have not specified which law shall govern their relations; and

(e) All petitions for mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and processes in aid of its appellate jurisdiction.

(2) Concurrently with existing civil courts, the Shari'a District Court shall have original jurisdiction over:

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

(b) All other personal and real actions not mentioned in paragraph 1 (d) 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 Circuit Court; and

(c) All special civil actions for interpleader or declaratory relief wherein the parties are Muslims or the property involved belongs exclusively to Muslims.

**Article 144. *Appellate jurisdiction.***

(1) Shari'a District Courts shall have appellate jurisdiction over all cases tried in the Shari'a Circuit Courts within their territorial jurisdiction.

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

**Article 145.** *Finality of decision.* The decisions of the Shari'a District Courts whether on appeal from the Shari'a Circuit Court or not shall be final. Nothing herein contained shall affect the original and appellate jurisdiction of the Supreme Court as provided in the Constitution.

**Article 146.** *Clerks and other subordinate employees.* Shari'a District Courts shall have the same officers and other personnel as those provided by law for Courts of First Instance.

The pertinent provisions of the Judiciary Law regarding the number, qualifications, appointment, compensation, functions, duties and other matters relative to the personnel of the Courts of First Instance shall apply to those of the Shari'a District Courts.

**Article 147.** *Permanent stations; offices.*

(1) The Shari'a District Courts shall have their respective permanent stations in the following places:

- (a) First Shari'a District, Jolo, Sulu;
- (b) Second Shari'a District, Bongao, Tawi-Tawi;
- (c) Third Shari'a District, Zamboanga City;
- (d) Fourth Shari'a District, Marawi City;
- (e) Fifth Shari'a District, Cotabato City;

(2) The Shari'a District Courts may hold sessions anywhere within their respective districts.

(3) The provinces, cities or municipalities concerned shall provide such courts with adequate court office, supplies and equipment in accordance with the provisions of the Judiciary Law.

**Article 148.** *Special procedure.* The Shari'a District Courts shall be governed by such special rules of procedure as the Supreme Court may promulgate.

**Article 149.** *Applicability of other laws.* The provisions of all laws relative to the Courts of First Instance shall, insofar as they are not inconsistent with this Code, be applicable to Shari'a District Courts.

## **Chapter Two** **SHARI'A CIRCUIT COURTS**

**Article 150.** *Where established.*

(1) Shari'a Circuit Courts shall be established as follows:

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

(2) The territorial jurisdiction of each of the 'Shari'a Circuit Courts shall be fixed by the Supreme Court on the basis of geographical contiguity of the municipalities and cities concerned and their Muslim population.

**Article 151.** *Appointment of judges.* Each Shari'a Circuit Court shall be presided over by a Shari'a Circuit Judge to be appointed by the President of the Philippines.

**Article 152.** *Qualifications.* No person shall be appointed judge of the Shari'a Circuit Court unless he is a natural-born citizen of the Philippines, at least twenty-five years of age, and has passed an examination in the Shari'a and Islamic jurisprudence (fiqh) to be given by the Supreme Court for admission to special membership in the Philippine Bar to practice in the Shari'a Courts.

**Article 153.** *Tenure.* Shari'a Circuit judges shall be appointed to serve during good behavior until they reach the age of sixty-five years or become incapacitated to discharge the duties of their office, unless sooner removed for the same causes and in the same manner provided by law for judges of Municipal Circuit Courts.

**Article 154.** *Compensation.* Shari'a Circuit judges shall receive the same compensation and enjoy the same privileges as judges of Municipal Circuit Courts.

**Article 155.** *Jurisdiction.* The Shari'a Circuit Courts shall have exclusive original jurisdiction over;

(1) All cases involving offenses defined and punished under this Code.

(2) All civil actions and proceedings between parties who are Muslims or have been married in accordance with Article 13 involving disputes relating to:

- (a) Marriage;
- (b) Divorce recognized under this Code;
- (c) Betrothal or breach of contract to marry;
- (d) Customary dower (mahr);
- (e) Disposition and distribution of property upon divorce;
- (f) Maintenance and support, and consolatory gifts, (mut'a); and
- (g) Restitution of marital rights.

(3) All cases involving disputes relative to communal properties.

**Article 156.** *Clerks and other subordinate employees.*

(1) Shari'a Circuit Courts shall have the same officers and other personnel as those provided by law for Municipal Circuit Courts.

(2) The pertinent provisions of the Judiciary Law regarding the number, qualifications, appointment, compensation, functions, duties and other matters relative to the personnel of the Municipal Circuit Courts shall apply to those of the Shari'a Circuit Courts.

**Article 157.** *Place of sessions; stations.* Shari'a Circuit Court may hold session anywhere within their respective circuits, but each shall have a principal station to be fixed by the Supreme Court.

**Article 158.** *Special procedure.* The Shari'a Circuit Courts shall be governed by such special rules of procedure as the Supreme Court may promulgate.

**Article 159.** *Applicability of other laws.* The provisions of all laws relative to Municipal Circuit Courts shall, to the extent that they are not inconsistent with this Code, be applicable to the Shari'a Circuit Courts.

## TITLE II THE AGAMA ARBITRATION COUNCIL

**Article 160.** *Constitution.* The Shari'a District Court or the Shari'a Circuit Court may, in appropriate cases, constitute an Agama Arbitration Council in the manner specified in this Title.

**Article 161.** *Divorce by talag and tafwid.*

(1) Any Muslim male who has pronounced a talag shall, without delay, file with the Clerk of Court of the Shari'a 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 talag pronounced shall not become irrevocable until after the expiration of the prescribed 'idda. The notice filed shall be conclusive evidence that talag 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 tafwid.

**Article 162.** *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 Shari'a 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 Council shall be constituted in accordance with the provisions of paragraph (2) of the preceding article. If the Agama Arbitration Council fails to obtain the wife's consent to the proposed marriage, the Court shall, subject to Article 27, decide whether or not to sustain her objection.

**Article 163.** *Offenses against customary law.* The Shari'a Circuit Court, in cases involving offenses against customary law which can be settled without formal trial, may, at its discretion, direct the Shari'a Clerk of Court to constitute a council of not less than two nor more than four members, with him as chairman, to settle the case amicably.

### **TITLE III JURISCONSULT IN ISLAMIC LAW**

**Article 164.** *Creation of office and appointment.*

(a) There shall be a Jurisconsult in Islamic law, who shall be appointed by the President of the Philippines and hold office for a term of seven years, without prejudice to re-appointment, unless sooner removed for cause or incapacitated to discharge the duties of his office.

(b) The Office of the Jurisconsult shall be under the administrative supervision of the Supreme Court of the Philippines which shall also fix its permanent station, preferably in the City of Zamboanga.

**Article 165.** *Qualifications.* No person shall be appointed Jurisconsult in Islamic Law unless he is a citizen of the Philippines, at least forty years of age, of good moral character and proven integrity, and an eminent scholar in the Qur'an and Hadith and in Islamic jurisprudence as well as proficient in Arabic.

**Article 166.** *Functions.*

(1) The Jurisconsult shall, on the written request of any interested party, have the authority to render legal opinions, based on recognized authorities, regarding any question relating to Muslim Law. For this purpose, he may, if he deems it necessary, consult or ask for a consensus of the 'ulama.

(2) The Jurisconsult shall consider and act on every such request unless, in his opinion and for good reason, the question need not be answered.

(3) The Office of the Jurisconsult shall keep a compilation and cause the publication of all his legal opinions.

**Article 167.** *Compensation.* Until otherwise provided by law, the Jurisconsult shall receive an annual compensation of forty-eight thousand pesos which shall not be diminished during his term of office.

**Article 168.** *Office personnel.* The Jurisconsult may, in accordance with the Civil Service Law and subject to the approval of the Supreme Court, appoint and fix the compensation of such personnel as may be necessary for the performance of his functions.

## **BOOK FIVE MISCELLANEOUS AND TRANSITORY PROVISIONS**

### **TITLE I MUSLIM HOLIDAYS**

**Article 169.** *Official Muslim holidays.* The following are hereby recognized as legal Muslim holidays:

(a) 'Amun Jadid (New Year), which falls on the first day of the first lunar month of Muharram;

(b) Maulid-un-Nabi (Birthday of the Prophet Muhammad), which falls on the twelfth day of the third lunar month of Rabi-ul-Awwal;

(c) Lailatul Isra Wal Mi'raj (Nocturnal Journey and Ascension of the Prophet Muhammad), which falls on the twenty-seventh day of the seventh lunar month of Rajab;

(d) 'Id-ul-Fitr (Hari Raya Pausa), which falls on the first day of the tenth lunar month of Shawwal, commemorating the end of the fasting season; and

(e) 'Id-ul-Adha (Hari Raja Haji), which falls on the tenth day of the twelfth lunar month of Dhu 1-Hijja.

**Article 170.** *Provinces and cities where officially observed.*

(1) Muslim holidays shall be officially observed in the Provinces of Basilan, Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, Sultan Kudarat, Sulu, Tawi-Tawi, Zamboanga del Norte and Zamboanga del Sur, and in the Cities of Cotabato, Iligan, Marawi, Pagadian, and Zamboanga and in such other Muslim provinces and cities as may hereafter be created.

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

**Article 171.** *Dates of observance.* The dates of Muslim holidays shall be determined by the Office of the President of the Philippines in accordance with the Muslim Lunar Calendar (Hijra).

**Article 172.** *Observance of Muslim employees.*

(1) All Muslim government officials and employees in places other than those enumerated under Article 170 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 173.** *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 174.** *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'a Circuit Court may appoint a trustee of a communal property when there is a dispute as to its custody, possession, or administration.

### TITLE III CUSTOMARY CONTRACTS

**Article 175.** *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 (rihan) in accordance with Muslim law.

### TITLE IV CONVERSIONS

**Article 176.** *Effect of registration of conversion to Islam.*

(1) Registration of a person's conversion to Islam shall constitute a prima facie proof that he professes Islam.

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

**Article 177.** *Regulation on conversion.* No conversion of a minor below the age of eighteen 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 paternal authority in accordance with law.

**Article 178.** *Effect of conversion to Islam on marriage.* The conversion of non-Muslim spouses to Islam shall have the legal effect of ratifying their marriage as if the same had been performed in accordance with the provisions of this Code or Muslim law, provided that there is no legal impediment to the marriage under Muslim law.

**Article 179.** *Effect of change of religion.* The change of religion by a Muslim shall not have the effect of extinguishing any obligation or liability whatsoever incurred prior to said change.

### TITLE V PENAL PROVISIONS

#### Chapter One RULE OF BIGAMY

**Article 180.** *Law applicable.* The provisions of the Revised Penal Code relative to the crime of bigamy shall not apply to a person married in accordance with the provisions of this Code or, before its effectivity, under Muslim law.

## **Chapter Two**

### **SPECIFIC OFFENSES**

**Article 181.** *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 imprisonment of not less than two months but not more than two years, or a fine of not less than two hundred pesos but not more than two thousand pesos, or both, in the discretion of the court.

**Article 182.** *Marriage before expiration of 'idda.* 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 'idda shall suffer the penalty of a fine not exceeding five hundred pesos.

**Article 183.** *Offenses relative to subsequent marriage, divorce, and revocation of divorce.* A person who falls to comply with the requirements of Articles 85, 161, and 162 of this Code shall be penalized by arresto mayor or a fine of not less than two hundred pesos but not more than two thousand pesos, or both, in the discretion of the court.

**Article 184.** *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 hundred pesos but not more than one thousand pesos.

**Article 185.** *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 3753.

## **TITLE VI**

### **TRANSITORY AND FINAL PROVISIONS**

**Article 186.** *Effect of code on past acts.* (1) Acts executed prior to the effectivity of this Code shall be governed by the laws in force at the time of their execution, and nothing herein except as otherwise specifically provided, shall affect their validity or legality or operate to extinguish any right acquired or liability incurred thereby.

(2) A marriage contracted by a Muslim male prior to the effectivity of this Code in accordance with non-Muslim law shall be considered as one contracted under Muslim law provided the spouses register their mutual desire to this effect.

**Article 187.** *Applicability Clause.* The Civil Code of the Philippines, the Rules of Court and other existing laws, insofar as they are not inconsistent with the provisions of this Code, shall be applied suppletorily.

**Article 188.** *Separability clause.* If, for any reason, any article or provision of this Code is held to be invalid, the same shall not affect the other articles or provisions hereof.

**Article 189.** *Repealing clause.* All laws, proclamations, executive orders, rules and regulations, or any part thereof, inconsistent with provisions of this Code are hereby correspondingly modified or repealed.

**Article 190.** *Effectivity.* This Code shall take effect immediately.

DONE in the City of Manila this 4th day of February in the year of Our Lord nineteen hundred and seventy-seven.