



THIRD REGULAR SESSION

RESOLUTION NO. 177

RESOLUTION RESPECTFULLY URGING THE CONGRESS OF THE PHILIPPINES TO CREATE AND ESTABLISH SHARI'A COURTS IN ADDITION TO THE EXISTING SHARI'A COURTS IN THE PHILIPPINES

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

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

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

SHARI'A DISTRICT COURTS, GEOGRAPHICAL JURISDICTION

SHARI'A DISTRICT	PERMANENT STATION	JURISDICTION		TOTAL NUMBER OF COURTS
		PROVINCES	CITIES	
FIRST	Jolo, Sulu	Sulu	-	6
SECOND	Bongao, Tawi-Tawi	Tawi-Tawi	-	8
THIRD	Zamboanga City	Basilan Zamboanga del Norte Zamboanga del Sur	Dipolog Pagadian Zamboanga	10
FOURTH	Marawi City	Lanao del Norte Lanao del Sur	Iligan Marawi	12
FIFTH	Cotabato City	Maguindanao North Cotabato Sultan Kudarat	Cotabato	15
TOTAL				51

WHEREAS, in the draft final report of the SC UNDP entitled, "*Institutional Strengthening of the Shari'a Justice System (Phase 1)*", as part of the overall judicial reform program, which has the goal of strengthening the independence and accountability of the Judiciary and the delivery of speedy, impartial, and quality justice to all, on the geographical access issues, it is provided as follows:

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

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WHEREAS, this observation was also lamented by Midas Marquez in an interview with the Business Mirror that the existing number of *Shari’a* courts are not sufficient to efficiently handle and resolve disputes involving Muslim personal laws. He said more *Shari’a* courts are need to be established in other parts of the country, citing in particular Manila, Taguig, Baguio City and other areas where there are large Muslim population. He added that there is a need to create *Shari’a* courts in areas where there is a high concentration of Muslims;

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

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

The *Shari’a* Circuit Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or both parties are Muslims: *Provided*, that the non-Muslim party voluntarily submits to its jurisdiction:

- (a) All cases involving offenses defined and punishable under Presidential Decree No. 1083, where the act or omission has been committed in the Bangsamoro Autonomous Region;
- (b) All civil actions and proceedings between parties residing in the Bangsamoro Autonomous Region who are Muslims or have been married in accordance with Article 13 of Presidential Decree No. 1083, involving disputes relating to:
 - (1) Marriage;
 - (2) Divorce;
 - (3) Betrothal or breach of contract to marry;
 - (4) Customary dower or *mahr*;
 - (5) Disposition and distribution of property upon divorce;
 - (6) Maintenance and support, and consolatory gifts; and
 - (7) Restitution of marital rights;
- (c) All case involving disputes relative to communal properties;

- (d) All cases involving *ta'zir* offenses defined and punishable under *Shari'a* law enacted by the Parliament punishable by *arresto menor* or corresponding fine, or both;
- (e) All civil actions under *Shari'a* law enacted by the Parliament involving real property in the Bangsamoro Autonomous Region where assessed value of the property does not exceed Four Hundred Thousand pesos (₱400,000.00); and
- (f) All civil actions, if they have not specified in an agreement which law shall govern their relations, where the demand or claim does not exceed Two Hundred Thousand pesos (₱200,000.00).

“The *Shari'a* District Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or both are Muslims: *Provided*, that the non-Muslim party voluntarily submits to its jurisdiction:

- (a) All cases involving custody, guardianship, legitimacy, and paternity and filiation arising under Presidential Decree No. 1083;
- (b) All cases involving disposition, distribution, and settlement of the estate of deceased Muslims, probate of wills issuance of letters of administrators or executors regardless of the nature or the aggregate value of the property;
- (c) Petitions for the declaration of absence and death, and for the cancellation or correction of entries in the Muslim Registries mentioned in Title VI of Book Two of Presidential Decree No. 1083;
- (d) All actions arising from customary and *Shari'a* compliant contracts in which the parties are Muslims, if they failed to specify the law governing their relations;
- (e) All petitions for *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and processes, in aid of its appellate jurisdiction;
- (f) Petition for the constitution of a family home, change of name, and commitment of an insane person to an asylum;
- (g) All other personal and real actions not falling under the jurisdiction of the *Shari'a* Circuit Courts wherein the parties involved are Muslims, except those for forcible entry and unlawful detainer, which shall fall under the exclusive original jurisdiction of the Municipal Trial Court;
- (h) All special civil actions for interpleader or declaratory relief wherein the parties are Muslims residing in the Bangsamoro Autonomous Region or the property involved belongs exclusively to Muslim and is located in the Bangsamoro Autonomous Region;
- (i) All civil actions under *Shari'a* law enacted by the Parliament involving real property in the Bangsamoro Autonomous Region where the assessed value of the property exceeds Four Hundred Thousand pesos (₱400,000.00); and
- (j) All civil actions, if they have not specified in the agreement which law shall govern their relations where the demand or claim exceeds Two Hundred Thousand pesos (₱200,000.00).”

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

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

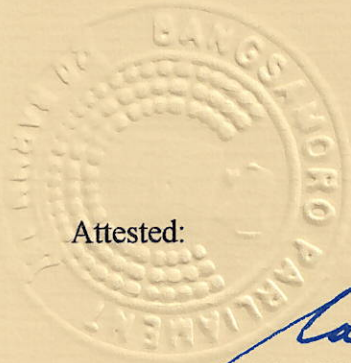
WHEREAS, in light of the factual circumstances aforesaid, it is imperative for the Bangsamoro Government through the parliament to initiate the call for the creation and establishment of *Shari'a* Courts outside of BARMM specifically in areas where there is concentration of Muslims such as but not limited to Manila, Taguig and Baguio City:

NOW, THEREFORE, be it


RESOLVED, as it is hereby resolved by the Bangsamoro Transition Authority, to respectfully urge the Congress of the Philippines to create and establish *Shari'a* Courts in addition to the existing *Shari'a* Courts in the Philippines.

RESOLVED, FINALLY, to forward the foregoing Resolution to the offices of Senate President Vicente "Tito" C. Sotto III, House of Representative Speaker Lord Allan Velasco and Supreme Court of the Philippines through the Court Administrator, for information and appropriate consideration.

ADOPTED, Rabi ul Awwal 7, 1443/October 14, 2021.

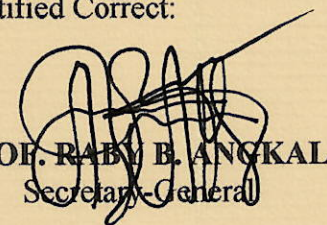


Attested:


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Speaker

/PR525

Certified Correct:


PROF. RABI B. ANGKAL
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