



MEMORANDUM

FOR **ATTY. RASOL Y. MITMUG, JR.**
Member of the Parliament
Bangsamoro Transition Authority

SUBJECT **Review of PD 1083, RA11054, BAA 13, ARMM MMA 280, AND MMA 292**

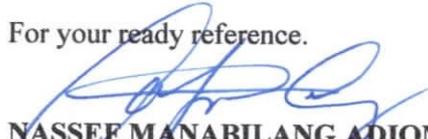
DATE 09 July 2021

This has reference to the request letter dated 17 May 2021 and received from your office requesting review for the following:

1. Review of Ha.ii provisions within RA 9997, RA 11054, and BAA 13.
2. Review of Halal provisions within RA 9997, RA 11054, and BAA 13.
3. Review of Shari'ah and justice system provisions within PD 1083, RA 11054, and BAA 13 along with MMA 280 and MMA 292.
4. Review of PD 1083.

The Policy Research and Legal Services is pleased to transmit the attached reviews regarding your request. We hope that our reviews can help your office and guide you accordingly.

For your ready reference.


NASSEF MANABILANG ADIONG
OIC-Director, Policy Research and Legal Services

Attachment: (1) Request letter dated 17 May 2021 from MP ATTY. RASOL Y. MITMUG, JR.
(2) Comparative Review of PD No. 1083, RA No. 9997, RA No. 11054, BM No. 13, MMA 280 and MMA 292
(3) Matrix Review of Ha.ii Provisions within RA No. 9997, RA No. 11054, and BM No. 13



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OFFICE OF MP RASOL Y. MITMUG, JR.

DEPUTY MINORITY FLOOR LEADER

TO NASSEF MANABILANG ADIONG
OFFICER-IN-CHARGE,
POLICY RESEARCH AND LEGAL SERVICES

SUBJECT REVIEW OF PD 1083, RA 11054, BAA 13,
ARMM MMA 280, AND MMA 292

DATE MAY 17, 2021

FROM ATTY. RASOL Y. MITMUG, JR.
MEMBER OF THE BTA PARLIAMENT



This Office is writing to respectfully request for a review of PD 1083 (System of Filipino Muslim Laws), RA 9997 (National Commission on Muslim Filipinos), RA 11054 (Bangsamoro Organic Law), BAA 13 (Bangsamoro Administrative Code), MMA 280 (ARMM GAD Code), and MMA 292 (ARMM Reproductive Health Care Act).

Specifically, we seek the following:

- 1. Review of Hajj provisions within RA 9997, RA 11054, and BAA 13.** Given that both the NCMF and the Bangsamoro Pilgrimage Authority have mandates on the administration of the annual hajj/ Muslim pilgrimage to Mecca, Saudi Arabia, we need to check for potential conflict.
- 2. Review of Halal provisions within RA 9997, RA 11054, and BAA 13.** Similarly, both the NCMF and the Bangsamoro Halal Board are tasked with developing the Halal industry, so it is necessary to examine any gaps or overlaps in their functions.
- 3. Review of Shari'ah and justice system provisions within PD 1083, RA 11054, and BAA 13 along with MMA 280 and MMA 292.** One possible problem we see are the provisions on child marriage. Child marriages are acceptable in PD 1083 following certain conditions, while MMA 280 adopts a policy of advocating discouragement against child marriages within the region. Perhaps there are other subject matters within these laws that also need assessment.
- 4. Review of PD 1083.** If the national government sees fit to update PD 1083 into a Republic Act, the Bangsamoro government should be prepared in engagements at the Philippine Congress -Bangsamoro Parliament Forum to ensure the new enacted law does not create discrepancies or



OFFICE OF MP RASOL Y. MITMUG, JR.

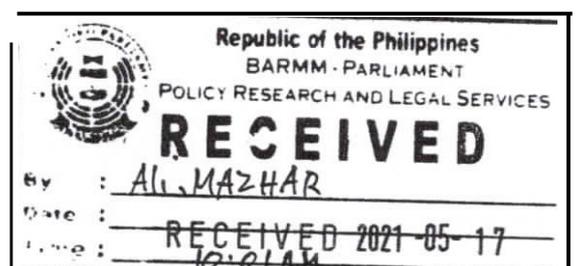
DEPUTY MINORITY FLOOR LEADER

A cross-evaluation of these laws is necessary to determine if our regional laws are in line with existing national laws, or if there are contradictions between Bangsamoro and ARMM laws. As the Bangsamoro government has not yet enacted a new Bangsamoro GAD Code and Reproductive Health Law, the ARMM laws are still in effect.

If inconsistencies or disagreements are found between them, the Bangsamoro Parliament should identify these issues so that it can determine if it needs to legislate new laws, amend existing ones, or coordinate with the national government through the National Government-Bangsamoro Government Intergovernmental Relations Body (IGRB).

You may send your findings via all@rasmltmug.com

For your consideration. Thank you.



Comparative Review of PD No. 1083, RA No. 9997, RA No. 11054, BAA No. 13, MMA No. 280 and MMA 292

Policy Research and Legal Services

I. Introduction

With its effectivity in 2010, Republic Act No. 9997 (“RA No. 9997”) created the National Commission on Muslim Filipinos (“NCMF”). Pursuant to Section 3 of said law, NCMF is mandated to administer programs involving Muslim Filipinos at the level of the national and regional levels.¹ On August 10, 2018, the Republic Act No. 11054 (“RA No. 11054”) or the Bangsamoro Organic Law became effective. On January and February of 2019, a two-part plebiscite was held which created the Bangsamoro Autonomous Region in Muslim Mindanao (“BARMM”). The purpose of BARMM and its Organic Law was to establish a separate political entity for the Bangsamoro people which allows for meaningful self-governance within the framework of the Philippine Constitution.² BARMM is intended to have an “asymmetric relationship” with the national government. As the concept of asymmetric relationship does not have any definition in law or jurisprudence, there is a great deal of uncertainty how it will work out in practice. For now, the basic issue that needs to be examined is whether there is any conflict between the provisions of RA No. 9997, RA No. 11054, and those laws passed by the Bangsamoro Parliament.

II. Scope

This brief commentary intends to provide an comparative analysis of the RA No. 9997, RA No. 11054, and those laws passed by the Bangsamoro Parliament but it will not discuss possible legal issues from the framework of Philippine Constitutional Law. In the process, relevant laws are also cited, including case law, to come up with a comprehensive discussion befitting the review requested herein. Clearly though, a comprehensive discussion of matters focused on the constitutionality of certain provisions is better dealt with separately.

A matrix is attached for better perusal, along with the comments of the Policy Research and Legal Services.

III. 1st Subject Matter: Hajj

As regards the provisions on Hajj or the annual Muslim pilgrimage to Mecca, Saudi Arabia, the mandate of the NCMF and BARMM do not conflict nor overlap with one another. Section 3 of RA No. 9997 stipulates that the NCMF shall have the power to supervise all programs with regard to the annual Hajj at the national level. In contrast, R.A. No. 11054 provides that the Bangsamoro Government’s jurisdiction over Hajj and Umrah are limited only

¹ Rep. Act No. 9997 (2010), secs. 3 and 10.

² Rep. Act No. 11054 (2018), sec. 3

to pilgrims from within the Bangsamoro.³ NCMF shall be responsible for Hajj programs at the national level through the Bureau of Pilgrimage and Endowment (hereinafter, Bureau),⁴ while the Bangsamoro government will exercise jurisdiction in establishing, developing and implementing programs relating to Hajj through the Bangsamoro Pilgrimage Authority (“Authority”).⁵ Further, the Bangsamoro Autonomy Act No. 13 (“BAA 13”) or the Bangsamoro Administrative Code made it clear that the Authority shall act in close coordination with the NCMF.⁶

Despite the clear delineation thereof, the almost identical provisions on Hajj of RA No. 9997, RA No. 11054 and BAA No. 13 create a potential overlap in the functions of the NCMF and the Authority. This will potentially lead to redundancy in the creation and maintenance of special trust funds for Hajj. Further, conflict may arise between the Bureau and Authority in the utilization of their special trust funds. For instance, RA No. 9997 and BAA No. 13 contemplate the creation of special trust funds for Hajj⁷ for the NCMF Bureau of Pilgrimage and Endowment, (“Bureau”) and the Authority, respectively. Likewise, the Bureau and Authority have similar functions, except that the Authority has the mandate to directly engage and enter into agreements with the authorities of the Kingdom of Saudi Arabia (“Saudi”).⁸ However, for the same purpose of engaging and entering into agreements with Saudi, the Philippine President is given the power to appoint the Hajj Attaché.⁹ The Hajj Attaché shall coordinate with the Ministry of Hajj of the Kingdom of Saudi Arabia on all matters pertaining to the conduct of the annual Hajj.

Notably, both Bureau and Authority are given the power to approve the timetable of the annual Hajj program.¹⁰ In case of conflict in the timetable, the Bureau’s timetable shall be used for the Hajj program of the central government while the Authority’s timetable shall be used in BARMM.

BAA No. 13 clearly delineates the Authority’s jurisdiction to pilgrims within the Bangsamoro territorial region. Any conflict or redundancy may be resolved in view of this delineation such that the situs or place of residency of a pilgrim will serve as basis as to which between the Bureau and the Authority should exercise jurisdiction.

IV. 2nd Subject Matter: Halal

With regard to halal, the respective provisions of RA No. 9997, RA No. 11054, and BAA No. 13 are clear, with the supervening event of the passing of RA No. 11087. The current legal regime is for the Philippine Halal Export Development and Promotion Board (“Philippine Halal

³ Rep. Act No. 11054 (2018), sec. 2

⁴ Rep. Act No. 9997 (2010), sec. 11

⁵ Rep. Act No. 11054 (2018), sec. 45

⁶ BARMM BA Act No. 13 (Nov. 17, 2020), sec. 43

⁷ Rep. Act No. 9997 (2010), sec. 11; BARMM BA Act No. 13 (Nov. 17, 2020), sec. 45

⁸ BARMM BA Act No. 13 (Nov. 17, 2020), sec. 45

⁹ Rep. Act No. 9997 (2010), sec. 15

¹⁰ Rep. Act No. 9997 (2010), sec. 11; BARMM BA Act No. 13 (Nov. 17, 2020), sec. 45

Board”), designated as the national government’s attached agency tasked to develop the *Philippine Halal Export Development and Promotion Program*,¹¹ whereas the Bangsamoro Halal Board only seeks to develop the *Bangsamoro Halal Industry*.¹² Being national in scope, the Philippine Halal Board has broader powers and functions than the Bangsamoro Halal Board such that the latter is mandated to recognize and coordinate with the Philippine Halal Board.¹³ Unlike the case for Hajj, the national government exercises primary authority on matters pertaining to Halal, including those matters relating to Halal in BARMM.

V. 3rd subject matter: Shari’ah and justice system

With regard to the Shari’ah and justice system of the Bangsamoro, the Bangsamoro justice system under RA No. 11054 is patterned after the justice system established in Presidential Decree 1083 (“PD 1083”) or the Code of Muslim Personal Laws. RA No. 11054 did introduce new provisions on the Bangsamoro justice system. In particular, RA No. 11054 substantially adopted the provisions of PD No. 1083 on the jurisdiction of Shari’ah Circuit Courts and Shari’ah District Courts, with a few amendments. The most noteworthy change to the justice system is the establishment of the Shari’ah High Court. Under its Article X, Section 7, RA 11054 created the Shari’ah High Court which has appellate jurisdiction over decisions by the Shari’ah District Courts and exclusive original jurisdiction over certain cases where either or both parties are Muslims, provided that the non-Muslim party, if any, voluntarily submits to the Shari’ah High Court’s jurisdiction.¹⁴ R.A. No. 11054 also introduced amendments to the qualifications for Shari’ah Circuit Court and Shari’ah District Court judges.¹⁵ Furthermore, RA No. 11054 granted the Parliament the power to enact laws pertaining to:

- a. personal, family, and property law jurisdiction;
- b. laws governing commercial and other civil actions not provided for under P.D. 1083; and
- c. laws on criminal jurisdiction on minor offenses punishable by *arresto menor* or *ta’zir* which must be equivalent to *arresto menor* or fines commensurate to the offense.¹⁶

Considering that BAA No. 13 is merely built on the foundations laid down under RA No. 11054, both BAA 13 and RA 11054 have substantially the same provisions with respect to the Bangsamoro justice system. However, it is noteworthy that, pursuant to Article X, Section 16 of RA No. 11054, BAA 13 created the Shari’ah Public Assistance Office and the Shari’ah Special Prosecution Service.

¹¹ Rep. Act. No. 10817 (2016), sec. 5

¹² BARMM BA Act No. 13 (Nov. 17, 2020), sec. 33

¹³ BARMM BA Act No. 13 (Nov. 17, 2020), sec. 34, paragraph c

¹⁴ Rep. Act No. 11054 (2018), sec. 7

¹⁵ Rep. Act No. 11054 (2018), sec. 8

¹⁶ Rep. Act No. 11054 (2018), sec. 17

With regard to possible changes and conflicts in personal laws with the issuance of Muslim Mindanao Autonomy Act No. 280 (“MMAA 280”) and Muslim Mindanao Autonomy Act No. 292, there is little change to the substantive law provided in PD 1083. In fact, Section 33 of MMAA 280 explicitly provides that “[m]arriages and family relations, succession, and settlement of estate of deceased persons shall be governed by the Shari’ah, the Code of Muslim Personal Laws (P.D. 1083), the New Family Code, in suppletory character, and [MMA 280].”¹⁷ Emphasis must be placed on the fact that P.D. 1083 is still a primary source for MMA 280. To illustrate, under Section 38 thereof, it states that “divorce shall be valid and effective only after the exhaustion of all possible means of reconciliations as provided in the Holy Qur’an and pursuant to the provisions of PD 1083 [emphasis mine]”.¹⁸

MMAA No. 280 introduces a shift in policy on child marriages. MMAA No. 280 adopts a policy discouraging child marriages within the region, while PD No. 1083 still permits marriage to brides at least 15 years of age. While child marriages remain to be valid, MMAA No. 280 mandates that agencies, non-government and civil society organizations in the Autonomous Region in Muslim Mindanao conduct strong advocacy campaign against early marriages or those involving children.¹⁹ Amidst this entire backdrop is the unanimous passing on November 2020 of Senate Bill No. 1373 of the current Congress, seeking to prohibit and declare child marriage as illegal. Interestingly, the press release cites the following data:

In the Philippines, child brides are estimated at around 726,000, making the country the 12th highest in the world in terms of absolute numbers. A 2019 survey by the Oxfam-led Improving Availability of Reproductive Health Services in the Autonomous Region in Muslim Mindanao or the ARCHES Project, showed that 253 or 24 percent out of the 1,058 respondents coming from Lanao del Sur, Maguindanao, and the Basulta regions (Basilan, Sulu and Tawi-Tawi) were cases of child marriage, and 97 percent of them involved girls.²⁰

Meanwhile, the House of Representatives were able to approve a similar bill in the House committee on women and gender equality on 2 June 2021.²¹

¹⁷ BARMM MMA No. 280 (Dec 6, 2010), sec. 33

¹⁸ BARMM MMA No. 280 (Dec 6, 2010), sec. 38

¹⁹ BARMM MMA No. 280 (Dec 6, 2010), sec. 36

²⁰ Press Release, Senate declares child marriages a public crime, 9 November 2020 available at http://legacy.senate.gov.ph › press_release › 1109_prib2

²¹ Michelle Abad, *Bill criminalizing child marriage hurdles House panel*, 2 June 2021, Rappler, available at <https://www.rappler.com/nation/bill-criminalizing-child-marriage-philippines-hurdles-house-panel-june-2-2021>

Review of Hajj provisions within RA No. 9997, RA No. 11054, and BAA No. 13

Both the National Commission on Muslim Filipinos (“NCMF”) and the Bangsamoro Pilgrimage Authority are mandated to administer the annual Hajj/Muslim pilgrimage to Mecca, Saudi Arabia. In checking the possibility of any conflict, we create the following juxtaposition:

<p>RA No. 9997 (2010) National Commission on Muslim Filipinos Act of 2009</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code, with regard to Chapter 3 thereof: Attached Agencies and Offices – E. BANGSAMORO PILGRIMAGE AUTHORITY</p>	<p>COMMENTS</p>
<p>SECTION 8. Powers and Functions. — To accomplish its mandate, the Commission shall have the following powers and functions: xxx (q) Administer all programs, projects and activities, formulate the necessary rules and regulations, and coordinate with pertinent offices to ensure the success of the annual Hajj (pilgrimage) to Mecca, Kingdom of Saudi Arabia; xxx</p>	<p>ARTICLE V – Powers of Government SECTION 2. Powers of the Bangsamoro Government. — Subject to Section 20, Article X of the Constitution and this Organic Law, the Bangsamoro Government shall exercise its authority over the following matters without prejudice to the general supervision of the President of the Republic of the Philippines (aa) Hajj and Umrah;</p>	<p>Sec. 43. The Bangsamoro Pilgrimage Authority. - The Bangsamoro Government shall have primary jurisdiction over <i>Hajj</i> and <i>Umrah</i> matters affecting pilgrims from <u>within the Bangsamoro</u>. The Bangsamoro Pilgrimage Authority shall act in close coordination with the National Commission on Muslim Filipinos on <i>Hajj</i> and <i>Umrah</i> matters to ensure that the pilgrims from the Bangsamoro are provided with the same level of services as those from outside.</p>	<p>There is no conflict between the three provisions. The National Commission on Muslim Filipinos (hereinafter, NCMF) shall have the power to supervise all programs with regard to the annual Hajj at the national scale, whereas the Bangsamoro Government’s jurisdiction over Hajj and Umrah are limited only to pilgrims from within the Bangsamoro. Moreover, BAA 13 is clear insofar as it mandates the Bangsamoro Pilgrimage Authority (under the Bangsamoro Government) to closely coordinate with the national NCMF.</p>
<p>SECTION 8. Powers and Functions. — To accomplish its mandate, the Commission shall have the following powers and functions: xxx (r) Promote the development of a Hajj Assistance Fund that shall be created from contributions of Muslim Filipinos and other donors which shall be used to support the financial needs of deserving Muslim Filipinos intending to participate in the annual Hajj; xxx</p>			<p>The Hajj Assistance Fund is an exclusive project of the NCMF.</p>
<p>SECTION 11. Bureaus. — The Bureaus of the Commission shall consist of the... Bureau of Pilgrimage and Endowment x x x . Each of these Bureaus shall be headed by a Director who shall hold the same rank, salary, and privileges of a Staff Bureau Director. The Bureau Director shall be appointed by the President from among the names or nominees submitted by the Commission to the President. (e) Bureau of Pilgrimage and Endowment. — This</p>	<p>ARTICLE VII – Bangsamoro Government SECTION 42. Other Offices. — The Parliament may create other offices such as for the youth, women, settler communities, disaster risk reduction and management, and planning and development, including a Bangsamoro Pilgrimage Authority which shall exercise jurisdiction over Hajj and Umrah matters affecting pilgrims from within the Bangsamoro Autonomous Region.</p>	<p>Sec. 44. Mandate. - The Bangsamoro Pilgrimage Authority is primarily responsible for the administration of the annual Muslim pilgrimage to Mecca, Kingdom of Saudi Arabia of pilgrims from within the Bangsamoro. It shall formulate and implement programs, projects and activities for the efficient and effective administration and supervision of the conduct of pilgrimage <u>activities of Bangsamoro pilgrims</u>.</p>	<p>NCMF shall be responsible for Hajj programs at the national level through the Bureau of Pilgrimage and Endowment. The Bangsamoro Government shall exercise jurisdiction over Hajj programs through the Bangsamoro Pilgrimage Authority. The latter shall be responsible only for Hajj within the Bangsamoro. Note: As to matters relating to Hajj and Umrah, NCMF exercises supervision and not control.</p>

<p align="center">RA No. 9997 (2010) National Commission on Muslim Filipinos Act of 2009</p>	<p align="center">RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao</p>	<p align="center">BAA No. 13 (2019) Bangsamoro Administrative Code, with regard to Chapter 3 thereof: Attached Agencies and Offices – E. BANGSAMORO PILGRIMAGE AUTHORITY</p>	<p align="center">COMMENTS</p>
<p>Bureau shall be primarily responsible for the administration of the annual Muslim pilgrimage to Mecca, Kingdom of Saudi Arabia; and the formulation and implementation of programs, projects and activities for the efficient and effective administration and supervision of the conduct of pilgrimage activities: Provided, That the supervision accorded the Bureau under this section shall not include control.</p>			
<p>SECTION 11. x x x Pursuant to the above responsibilities, the Bureau shall formulate the necessary guidelines to ensure the timely processing of the <u>pilgrim's</u> travel documents and the equitable and reasonable collection of fees. Such collection shall be limited to mutawiff and passporting and/or processing fees only. Collected fees shall be deposited in a special trust fund which shall be established by the Commission, the expenses from which shall be subject to existing auditing laws, rules and regulations.</p>		<p>Sec. 45. Functions. - The Bangsamoro Pilgrimage Authority shall formulate the necessary guidelines to ensure the timely processing of the <u>Bangsamoro pilgrim's travel documents</u> and the equitable and reasonable collection of fees. X x x Pursuant to the above, collections shall be limited to <i>mutawiff</i> and passporting and/or processing fees only. Collected fees shall be deposited in a special trust fund which shall be established by the Authority, the expenses from which shall be subject to existing auditing laws, rules and regulations.</p>	<p>The Bureau of Pilgrimage and Endowment ("Bureau") and the Bangsamoro Pilgrimage Authority ("Authority") exercise the same functions, albeit in different territorial areas. Pilgrims from the Bangsamoro shall be assisted by the Authority while pilgrims situated elsewhere shall fall under the responsibility of the Bureau.</p> <p>The two laws contemplate that there shall be a creation of two special trust funds for Hajj purposes – one for the Bureau, and another for the Authority.</p>
<p>SECTION 11. x x x The pilgrims shall be accorded free choice of travel agencies and airlines or other means of transportation to and from the site of pilgrimage: Provided, That pilgrims comply with the prescribed arrival and departure schedule fixed by the Ministry of Hajj of the Kingdom of Saudi Arabia: Provided, further, That all pilgrims shall be legitimate holders of roundtrip tickets to and from the Kingdom of Saudi Arabia: Provided, furthermore, That the pilgrims shall be free to choose on where to purchase or acquire other logistics, materials and supplies for the pilgrimage.</p> <p>In no instance shall the pilgrims be forced to purchase such logistics, materials and supplies from the Commission or its authorized agents or representatives.</p>		<p>Sec. 45. Functions. x x x The pilgrims shall be accorded free choice of travel agencies and airlines or other means of transportation to and from the site of pilgrimage: <i>Provided</i>, That pilgrims comply with the prescribed arrival and departure schedule fixed by the Ministry of Hajj of the Kingdom of Saudi Arabia: <i>Provided, further</i>, That all pilgrims shall be legitimate holders of round-trip tickets to and from the Kingdom of Saudi Arabia: <i>Provided, furthermore</i>, That the pilgrims shall be free to choose on where to purchase or acquire other logistics, materials and supplies for the pilgrimage.</p> <p>In no instance shall the pilgrims be forced to purchase such logistics, materials and supplies from the Authority or its authorized agents or representatives.</p>	<p>Pilgrims from the Bangsamoro shall be assisted by the Authority while pilgrims situated elsewhere in the country shall fall under the responsibility of the Bureau.</p> <p>However, the Authority has the mandate to directly engage and enter into agreements with the appropriate authorities of the Kingdom of Saudi Arabia in matters relating to Hajj. This contemplates that the Authority has greater functions than the Bureau.</p>

<p align="center">RA No. 9997 (2010) National Commission on Muslim Filipinos Act of 2009</p>	<p align="center">RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao</p>	<p align="center">BAA No. 13 (2019) Bangsamoro Administrative Code, with regard to Chapter 3 thereof: Attached Agencies and Offices – E. BANGSAMORO PILGRIMAGE AUTHORITY</p>	<p align="center">COMMENTS</p>
		<p><u>The Authority shall directly engage and enter into agreements with the appropriate authorities in the Kingdom of Saudi Arabia, upon consultation with, and prior approval by, the Chief Minister.</u></p>	
<p>SECTION 11. x x x The Bureau shall also accredit qualified and deserving sheikhs. It shall also formulate, subject to the approval of the Commission, the timetable of annual Hajj activities which must be posted in all areas accessible to Muslim Filipinos.</p>		<p>Sec. 45. Functions. x x x [The Bangsamoro Pilgrimage Authority] shall also accredit qualified and deserving sheikhs. It shall likewise formulate, subject to the approval of the Chief Minister, the time table of annual <i>Hajj</i> activities which must be posted in all areas accessible to Bangsamoro Muslims.</p>	<p>Both Bureau and Authority are given the power to approve the timetable of the annual Hajj program. In case of conflict in the timetable, the Bureau's timetable shall be used for the Hajj program of the national government while the Authority's timetable shall be used in BARMM.</p>
<p>SECTION 11. x x x The Bureau shall likewise be responsible for the administration of awqaf properties and institutions, and the conduct of research and studies for the establishment and maintenance of Hajj towns, Islamic centers and awqaf projects.</p>			<p>Only RA No. 9997 dealt with the administration of awqaf projects and conduct of research and studies for the establishment and maintenance of Hajj towns and Islamic centers. The Bureau is tasked with both the administration of awqaf projects and conduct of research and studies.</p> <p><i>N.B.:</i> How is the awqaf different from Section 8's Hajj Assistance Fund?</p>
<p>SECTION 13. Regional Offices, Field Offices, Sub-Offices. — The Commission is hereby authorized to establish, operate, and maintain Regional Offices in such appropriate administrative regions of the country, each of which shall be headed by a Regional Director. A Regional Office shall have, within its administrative region, the following functions: X x x (b) Establish regional and provincial Hajj coordinating and monitoring units;</p>		<p>Sec. 46. Organization and Composition. - The Office of the Bangsamoro Pilgrimage Authority shall be headed by an Executive Director assisted by a Deputy Executive Director, with the ranks of Director II and Director I, respectively, who shall be appointed by the Chief Minister. Their appointments shall be coterminous with the appointing authority. It shall be composed of the following divisions:</p> <ol style="list-style-type: none"> 1. Pilgrimage Operations Division; 2. Endowment Administration Division; 3. Administration and Finance Division; and 4. Such other divisions as may be created by the office with the concurrence of the Chief Minister. 	<p>It is unclear whether the Office of the Bangsamoro Pilgrimage Authority is equivalent to a Regional Office of the NCMF or whether an NCMF Regional Office will be established in the Bangsamoro.</p> <p>In the BOL, in Section 42, it expresses the creation of a Bangsamoro Pilgrimage Authority "which shall exercise jurisdiction over Hajj and Umrah matters affecting pilgrims from within the Bangsamoro Autonomous Region" but is silent as to its relation with the NCMF.</p>

<p align="center">RA No. 9997 (2010) National Commission on Muslim Filipinos Act of 2009</p>	<p align="center">RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao</p>	<p align="center">BAA No. 13 (2019) Bangsamoro Administrative Code, with regard to Chapter 3 thereof: Attached Agencies and Offices – E. BANGSAMORO PILGRIMAGE AUTHORITY</p>	<p align="center">COMMENTS</p>
<p>SECTION 15. Hajj Attaché. — The President shall appoint a Hajj Attaché from among the three (3) recommendees of the Commission within fifteen (15) days from the submission of such recommendees by the Commission. The Hajj Attaché shall coordinate with the Ministry of Hajj of the Kingdom of Saudi Arabia on all matters pertaining to the conduct of the annual Hajj. He/She shall be an academic degree holder and must be able to write and speak fluently the Arabic language. He/She shall hold office in the Kingdom of Saudi Arabia and shall enjoy the same rank, salary, and privileges as those of attachés of the national government.</p>		<p>Sec. 45. Functions. x x x</p> <p>The Authority shall directly engage and enter into agreements with the appropriate authorities in the Kingdom of Saudi Arabia, <u>upon consultation with, and prior approval by, the Chief Minister.</u></p>	<p>The function of the Hajj Attaché may be performed by the Authority upon consultation with, and prior approval by, the Chief Minister of the Bangsamoro Government.</p> <p>It is unclear how a conflict between the Hajj Attaché and the Chief Minister on agreements with the Kingdom of Saudi Arabia for the conduct of the annual Hajj will be resolved.</p>
<p>SECTION 16. Amirul Hajj. — The President shall appoint the Secretary of the Commission as the Amirul Hajj who shall serve as the representative of the President and as the head of the Muslim Filipino pilgrims who will attend the annual Hajj.</p>			
<p>SECTION 17. Change of Pilgrim's Name. — The Commission shall authenticate the certification which is issued by the Hajj Attaché and the Ministry of Hajj of the Kingdom of Saudi Arabia and which provides a Muslim name to a pilgrim. The authentication issued by the Commission, which shall contain both the pilgrim's registered name in the Philippine Civil Registry and his/her newly-issued Muslim name, shall then be legally recognized by the national government as valid for all intents and purposes.</p>			

Both the NCMF and the Bangsamoro Halal Board are tasked with developing the Halal industry. An examination of the laws are necessary, but is expanded to include the new statute of RA No. 10817 to examine any gaps or overlaps in their function.

<p>RA No. 9997 (2010) National Commission on Muslim Filipinos Act of 2009</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code</p>	<p>COMMENTS</p>
<p>SECTION 8. Powers and Functions. — To accomplish its mandate, the Commission shall have the following powers and functions:</p> <p>(h) Promote and develop the Philippine Halal Industry and accredit halal-certifying entities/bodies for the utmost benefit of Muslim Filipinos and in partnership or cooperation with appropriate agencies, individuals and institutions here and abroad;</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Notes:</p> <p>1. The mandate given to NCMF in RA No. 9997 follows the ruling of the Supreme Court in <i>Islamic Da'wah Council of the Philippines Inc. v. Office of the Executive Secretary et al</i>, G.R. No. 153888 in July 9, 2003. There, the Supreme Court held that the OMA (or Office of Muslim Affairs, the predecessor of NCMF) had no authority to classify food products as halal as it would encroach on the religious freedom of Muslim organizations to interpret for Filipino Muslims what food products are fit for Muslim consumption.</p> <p>2. The NCMF mandate in RA No. 9997 on accreditation of Halal- certifying bodies was revoked in the succeeding law, Republic Act No. 10817 enacted on 2016. Said power is transferred to the Philippine Accreditation Bureau which shall collaborate with the Philippine Halal Export Development and Promotion Board. At the same time, the Philippine Halal Promotion, Development and Accreditation Board under the NCMGF is also dissolved.</p> <p>3. Exact wording of Section (8)h is once again questioned by <i>Islamic Da'wah Council of the Philippines</i> in a 2015 petition before Supreme Court, but which was eventually dismissed on June 30, 2020 in G.R. No. 216870 for having become moot. The Court cited the enactment of RA No. 10817 as a supervening event which rendered the petition before it moot.</p> </div>	<p>SECTION 30. Halal Program. — The Bangsamoro Government shall have the power to accredit halal-certifying bodies in the Bangsamoro Autonomous Region. It shall promote awareness through the development and implementation of a halal campaign program.</p> <p>The Parliament shall enact laws to further strengthen its policy and programs on halal development.</p>	<p>TITLE XII SCIENCE AND TECHNOLOGY Chapter 1 General Provisions</p> <p>Sec. 3. Powers and Functions. - The Ministry of Science and Technology shall have the following powers and functions:</p> <p>(i) Contribute to the development and quality standards including <i>halal</i> for food and non-food industry through testing, analysis and capacity-building; and</p> <p>TITLE XIV TRADE, INVESTMENTS, AND TOURISM Chapter 1 General Provisions</p> <p>Sec. 3. Powers and Functions. - The Ministry of Trade, Investments and Tourism shall have the following powers and functions:</p> <p>(n) Promote, develop, and regulate <i>Halal</i> Industry development, and accredit <i>Halal</i> certifying bodies and <i>Halal</i> auditors <u>in the Bangsamoro Autonomous Region</u>;</p> <p>(o) Coordinate with the Ministry of Agriculture, Fisheries and Agrarian Reform, and other concerned agencies in the BARMM in the development and promotion of <i>Halal</i> industry;</p> <p>Sec. 5. Attached Agencies. - The following agency and board are attached to the Ministry: 1.) Bangsamoro Economic Zone Authority; and 2.) the Bangsamoro <i>Halal</i> Board.</p>	<p>NCMF shall have the authority to accredit halal-certifying entities or bodies in general, whereas the Bangsamoro Government shall have the power to do the same in the Bangsamoro Autonomous Region only.</p> <p>NCMF aims to develop the <i>Philippine Halal industry</i>, whereas the Bangsamoro Government aims to develop <i>Halal industry</i> through the "<i>Bangsamoro Halal Industry Development and Promotion Program</i>." With the passing of RA No. 10817, it is no longer with the NCMF but with the Philippine Halal Export Development and Promotion Board which is composed of DTI as Chair, NCMF as Vice Chair, and other departments and private sector as members. (See Notes under 1st column and in the succeeding matrix)</p> <p>BAA No. 13 expounds on the Bangsamoro Government's goals and mandate through its different ministries. BAA No. 13 also created the Bangsamoro Halal Board as an attached agency under the Ministry of Trade, Investments and Tourism, established for administering programs on Halal.</p>

RA No. 10817 (2016) or “Philippine Halal Export Development and Promotion Act of 2016”	BAA No. 13 (2019) with regard to Title XIV, Chapter 7 on Bangsamoro Halal Board	COMMENTS
<p>SEC. 5. <i>Creation of Philippine Halal Export Development and Promotion Board.</i> – To ensure the attainment of the objectives of this Act, there is hereby created the Philippine Halal Export Development and Promotion Board, herein referred to as the Halal Board. The Halal Board shall be the policy-making body on Halal export development and shall set the overall direction for the implementation of the <u>Philippine Halal Export Development and Promotion Program</u>. It shall be <u>attached to the Department of Trade and Industry</u>.</p> <p>In the performance of its mandate, the Halal Board shall institutionalize the involvement of Muslim Filipino people’s organizations and nongovernment organizations through membership in consultative or advisory bodies, coordination of activities with government agencies concerned with Halal industry development, and participation in regular consultative mechanisms such as public hearings and roundtable discussions.</p>	<p>Sec. 33. <i>Creation and Mandate.</i> - There is hereby created a Bangsamoro Halal Board which shall be the policy-making body of the Bangsamoro Government on Halal Industry Development and shall set the overall direction for the implementation of the <u>Bangsamoro Halal Industry Development and Promotion Program</u>. It shall be <u>attached to the Ministry of Trade, Investments, and Industry</u>.</p> <p>In the performance of its mandate, the Bangsamoro Halal Board shall institutionalize the involvement of concerned Bangsamoro government and non-government organizations, through membership in consultative or advisory bodies, coordination of activities with government agencies with Halal Industry Development, and participation in regular consultative mechanisms such as public hearings and roundtable discussions.</p>	<p>The Philippine Halal Export Development and Promotion Board (“Halal Board”) and the Bangsamoro Halal Board have identical functions. The former seeks to implement the <i>Philippine</i> Halal Export Development and Promotion Program while the latter only seeks to develop the <i>Bangsamoro</i> Halal Industry. Whereas the Halal Board is an attached agency of a department of the national government, the Bangsamoro Halal Board is an attached agency of one of the ministries of the Bangsamoro Government.</p>
<p>SEC. 6. <i>Powers and Functions.</i> – The Halal Board shall have the following powers and functions:</p> <p>(a) Formulate, advocate, coordinate, oversee and assess the implementation of the <u>Philippine Halal Export Development and Promotion Program</u>;</p> <p>(b) Direct and coordinate the development and harmonization of Philippine National Standards for Halal by standard setting agencies, and monitor, through the government regulatory agencies, the application thereof on products, processes and services;</p> <p>(c) Spearhead and support the forging of international agreements, and the recognition of accredited Halal certification bodies in other countries, to open new and expand existing markets for Halal products, processes and services;</p> <p>(d) Issue the Philippine Halal Logo and the guidelines on the proper use thereof: <i>Provided</i>, That the use of logos of certification bodies on certified products, processes and services shall be without prejudice: <i>Provided, further</i>, That all other government agencies are prohibited to issue a logo and require the use of such logo as proof of compliance to a standard or regulation as Halal: <i>Provided, finally</i>, That the use of logos previously issued by government agencies involved in Halal development and promotion is hereby disallowed;</p> <p>(e) Encourage and support the establishment of a single umbrella organization of Halal certification bodies, which can be tapped by</p>	<p>Sec. 34. <i>Powers and Functions.</i> - The Board shall have the following powers and functions:</p> <p>a. Grant or deny applications for issuance of certificates of accreditation of <i>halal</i> standards;</p> <p>b. Formulate, advocate, coordinate, oversee and assess the implementation of the <u>Bangsamoro Halal Development and Promotion Program</u>; <i>[similar to a]</i></p> <p>c. Coordinate with existing government regulatory agencies on matters of <i>halal</i> standard setting, including the application thereof on products, processes and services;</p>	<p>The powers and functions of the Halal Board is broader than the Bangsamoro Halal Board. The exclusive functions of the former are the following: the development of a Philippine National Standards for Halal (b); the forging of international agreements to expand existing markets for Halal products (c); the development and issuance of a Philippine Halal Logo (d); and the creation of a single umbrella organization for Halal certification (e). In contrast, the Bangsamoro Halal Board has the following unique function under paragraph (a) of Section 34: grant or deny applications for issuance of certificates of accreditation of halal standards.</p> <p><u>The Bangsamoro Halal Board recognizes the function of the Halal Board under RA No. 10817 and seeks to coordinate with existing government agencies (c).</u></p> <p>The remaining paragraphs under Section 34 of BAA No. 13 are identical to RA 10817. However, the mandate of the Bangsamoro Halal Board is limited to programs within the Bangsamoro Autonomous Region.</p>

RA No. 10817 (2016) or “Philippine Halal Export Development and Promotion Act of 2016”	BAA No. 13 (2019) with regard to Title XIV, Chapter 7 on Bangsamoro Halal Board	COMMENTS
<p>standard setting and regulatory agencies to assist in the development and in monitoring the application of internationally-accepted Halal certification standards;</p> <p>(f) Promulgate policies and guidelines as necessary or proper for the accomplishment of the objectives of this Act, including the Halal Board’s operation;</p> <p>(g) Create technical panels, working groups, or task forces that will assist the Halal Board in the performance of its functions;</p> <p>(h) Investigate and make recommendations on complaints, controversies, or disputes arising out of the implementation or enforcement of standards, guidelines, rules and procedures adopted to promote and develop Halal industries, the export of Halal products and the provision of Halal processes and services;</p> <p>(i) Request the assistance and cooperation of any department, bureau, office, agency or instrumentality of the government, or private entities and organizations in the implementation of its functions and the attainment of the objectives of this Act, including the carrying out of recommendations as a result of investigations and studies made pursuant to paragraphs (g) and (h) hereof; and</p> <p>(j) Perform such other powers and functions as may be prescribed by law, or may be necessary, incidental, or proper to its mandate.</p>	<p>d. Promulgate policies and guidelines as necessary or proper for the accomplishment of these objectives, including the Bangsamoro Halal Board’s operation;</p> <p>e. Create technical panels, working groups, or task forces that will assist the Board in the performance of its functions;</p> <p>f. Investigate and make recommendations on complaints, controversies, or disputes arising out of the implementation or enforcement of standards, guidelines, rules and procedures adopted to promote and develop Halal industries, the export of Halal products and the provision of Halal processes and services, <u>within the Bangsamoro Autonomous Region;</u></p> <p>g. Request the assistance and cooperation of any ministry, bureau, office, agency or instrumentality of the Bangsamoro Government, or private entities and organizations in the implementation of its functions and the attainment of the objectives hereof, including the carrying out of recommendations as a result of investigations and studies made pursuant to paragraphs (d) and (e) hereof; and</p> <p>h. Perform such other powers and functions as may be prescribed by law, or may be necessary, incidental, or proper to its mandate.</p>	
<p>SEC. 7. <i>Composition of the Halal Board.</i> – The Halal Board shall be composed of:</p> <p>(a) The Secretary of the Department of Trade and Industry (DTI) as Chairperson;</p> <p>(b) The Secretary of the National Commission on Muslim Filipinos (NCMF) as Vice Chairperson;</p> <p>(c) The Secretary of the Department of Agriculture (DA);</p> <p>(d) The Secretary of the Department of Health (DOH);</p> <p>(e) The Secretary of the Department of Science and Technology (DOST);</p> <p>(f) The Secretary of the Department of Foreign Affairs (DFA);</p> <p>(g) The Secretary of the Department of Tourism (DOT);</p> <p>(h) The Governor of the Bangko Sentral ng Pilipinas (BSP);</p> <p>(i) The Chairperson of the Mindanao Development Authority (MinDA); and</p> <p>(j) Two (2) Muslim Filipino professionals from the academe, law, industry, or food science who have experience in Halal industry development, to be appointed by the <u>President</u> from at least four (4) nominees recommended by Muslim Filipino people’s</p>	<p>Sec. 35. <i>Composition of the Bangsamoro Halal Board.</i> - The Board shall be composed of:</p> <p>a. The Minister of Trade, Investments, and Tourism as Chairperson;</p> <p>b. The Minister of Agriculture, Fisheries, and Agrarian Reform as Vice Chairperson;</p> <p>c. The Minister of Science and Technology;</p> <p>d. The Minister of Health;</p> <p>e. The Minister of Labor and Employment;</p> <p>f. The Minister of Transportation and Communications;</p> <p>g. <u>The Mufti of the Bangsamoro Darul-Ifta’;</u></p> <p>h. <u>A representative from the Mindanao State University System;</u> and</p> <p>i. Two (2) Bangsamoro professionals from the academe, law, industry, or food science who have experience in halal industry development, to be appointed by the <u>Chief Minister</u> from at least four (4) nominees recommended by Bangsamoro civil society organizations.</p> <p>The two (2) Bangsamoro professionals shall serve for a term of three (3) years, and may be reappointed once.</p>	<p>The Bangsamoro Halal Board’s composition is modelled after the composition of the Halal Board, only that BAA No. 13 introduced two additional members to the Bangsamoro Halal Board (ie. [1] the Mufti of the Bangsamoro Darul-Ifta’ and [2] a representative from the Mindanao State University System).</p>

RA No. 10817 (2016) or “Philippine Halal Export Development and Promotion Act of 2016”	BAA No. 13 (2019) with regard to Title XIV, Chapter 7 on Bangsamoro Halal Board	COMMENTS
<p>organizations and nongovernment organizations. The two (2) Muslim professionals shall serve for a term of three (3) years, and may be reappointed once. The <i>ex officio</i> members of the Halal Board may designate their respective alternates who shall be at least Bureau Director in rank and their acts shall be considered the acts of their principals.</p>	<p>The <i>ex officio</i> members of the Bangsamoro <i>Halal</i> Board may designate their respective alternates who shall be at least Bureau Director in rank and their acts shall be considered the acts of</p>	
<p>SEC. 8. <i>Secretariat of the Halal Board.</i> – The DTI Secretary, as Chairperson of the Halal Board, shall establish an interagency secretariat from the different bureaus of the DTI concerned with Halal export development, the NCMF, the DA and the DOH. The Secretariat shall be headed by the Director of the Export Marketing Bureau. For this purpose, the Export Marketing Bureau shall be strengthened and is hereby authorized to create a section that will serve as the nucleus of the Secretariat of the Halal Board.</p> <p>The Secretaries of the NCMF, the DA and the DOH shall assign technical staff of their offices as staff of the Secretariat. Other member agencies shall provide additional staff support upon the determination of the necessity by the Chairperson and conformity of the Halal Board.</p>	<p>Sec. 36. <i>Secretariat of the Bangsamoro Halal Board.</i> - The Minister of Trade, Investments, and Tourism, as Chairperson of the Bangsamoro <i>Halal</i> Board, shall establish an inter-agency secretariat from the different bureaus of the MTIT concerned with <i>halal</i> production, promotion and export development, the MAFAR and the MOST.</p> <p>The Ministers of MAFAR and MOST shall assign technical staff of their ministries as staff of the Secretariat. Other member agencies shall provide additional staff support upon the determination of the necessity by the Chairperson and conformity of the Bangsamoro <i>Halal</i> Board.</p>	
<p>SEC. 9. <i>Accreditation of Halal Certification Bodies.</i> – As the agency mandated to handle the accreditation of certification bodies, inspection bodies, and testing and calibration laboratories, the Philippine Accreditation Bureau (PAB) is hereby empowered to: (a) formulate accreditation policies and guidelines which shall govern the accreditation of Halal certification bodies; and (b) grant or deny accreditation of Halal certification bodies and suspend or withdraw such accreditation in accordance with established policies and guidelines. In the formulation of accreditation policies and guidelines, and in the performance of its accreditation function, the PAB shall consult and, when necessary, collaborate with the Halal Board, its member agencies, and Halal industry stakeholders.</p> <p>SEC. 10. <i>Philippine National Standards for Halal.</i> – The development of Philippine National Standards for Halal shall be the mandate of the following standard setting agencies: (a) Department of Agriculture – Bureau of Agriculture and Fisheries Standards (BAFS) – for primary and post-harvest foods; (b) Department of Health – Food and Drug Administration (FDA)</p>		<p>Section 9 onwards of RA No. 10817 have no equivalent provisions under BAA No. 13.</p> <p>N.B.: The Bangsamoro Halal Board recognizes and seeks to coordinate with existing government agencies on Halal matters (BAA No. 13, Section 34, paragraph c).</p>

RA No. 10817 (2016) or “Philippine Halal Export Development and Promotion Act of 2016”	BAA No. 13 (2019) with regard to Title XIV, Chapter 7 on Bangsamoro Halal Board	COMMENTS
<p>– for processed and prepackaged foods, drugs and cosmetics; and (c) Department of Trade and Industry – Bureau of Philippine Standards (BPS) – for nonfood products aside from drugs and cosmetics. Other products, processes and services that would necessitate the development of the corresponding Philippine National Standards for Halal which are not covered by the above agencies shall be assigned by the Halal Board to appropriate government agencies.</p> <p>See: <i>RA 10817 (2016)</i> for additional provisions</p>		

The request pertains to the possibility of conflict on the provisions on child marriage. Child marriages are acceptable in PD No. 1083 following certain conditions, while MMA No. 280 adopts a policy of advocating discouragement against child marriages within the region. Perhaps there are other subject matters within these laws that also need assessment.

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
	<p>Section 1. Justice System in the Bangsamoro. - The Bangsamoro justice system shall be administered in accordance with the unique cultural and historical heritage of the Bangsamoro.</p> <p>The dispensation of justice in the Bangsamoro Autonomous Region shall be in consonance with the Constitution, <i>Shari'ah</i>, traditional or tribal laws, and other relevant laws. <i>Shari'ah</i> or Islamic law forms part of the Islamic tradition derived from religious precepts of Islam, particularly the <i>Qur'an</i> and <i>Sunnah</i>. <i>Shari'ah</i> shall apply exclusively to cases involving Muslims. Where a case involves a non-Muslim, <i>Shari'ah</i> law may apply only if the non-Muslim voluntarily submits to the jurisdiction of the <i>Shari'ah</i> court.</p> <p>The traditional or tribal laws shall be applicable to disputes of indigenous peoples within the Bangsamoro Autonomous Region.</p> <p>The provisions of this Article shall not prejudice the rights of non-Muslims and nonindigenous peoples.</p>	<p>Sec. 1. Justice System in the Bangsamoro. - The Bangsamoro justice system shall be administered in accordance with the unique cultural and historical heritage of the Bangsamoro.</p> <p>The dispensation of justice in the Bangsamoro Autonomous Region shall be in consonance with the Constitution, <i>Shari'ah</i>, traditional or tribal laws, and other relevant laws. <i>Shari'ah</i> or Islamic law forms part of the Islamic tradition derived from religious precepts of Islam, particularly the <i>Qur'an</i> and <i>Sunnah</i>.</p> <p><i>Shari'ah</i> shall apply exclusively to cases involving Muslims. Where a case involves a non-Muslim, <i>Shari'ah</i> law may apply only if the non-Muslim voluntarily submits to the jurisdiction of the <i>Shari'ah</i> court.</p> <p>The traditional or tribal laws shall be applicable to disputes of indigenous peoples within the Bangsamoro Autonomous Region.</p> <p>The provisions of this Article shall not prejudice the rights of non-Muslims and non-indigenous peoples.</p>	<p>Article X, Section 1 of RA No. 11054 and Title V, Section 1 of BAA 13 have identical provisions.</p>
<p>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.</p> <p>Shari'a courts and the personnel thereof shall be subject to the administrative supervision of the Supreme Court.</p>	<p>Section 2. Shari'ah Courts. - <i>Shari'ah</i> courts within the Bangsamoro territorial jurisdiction shall form part of the Philippine judicial system subject to the supervision of the Supreme Court. The regular courts within the Bangsamoro Autonomous Region shall continue to function under the supervision of the Supreme Court.</p> <p>The Congress of the Philippines may create additional <i>Shari'ah</i> courts in the Bangsamoro Autonomous Region upon the recommendation of the Supreme Court. It may</p>	<p>Sec. 2. Shari'ah Courts. - <i>Shari'ah</i> courts within the Bangsamoro territorial jurisdiction shall form part of the Philippine judicial system subject to the supervision of the Supreme Court. The regular courts within the Bangsamoro Autonomous Region shall continue to function under the supervision of the Supreme Court.</p>	<p>It is expressly provided that the <i>Shari'ah</i> courts within the Bangsamoro territorial jurisdiction shall form part of the Philippine judicial system subject to the supervision of the Supreme Court.</p> <p>Notably, under RA No. 11054 and BAA No. 113, the <i>Shari'ah</i> Circuit Courts and the <i>Shari'ah</i> District Courts within the Bangsamoro Autonomous Region have jurisdiction over the same types of cases that <i>Shari'ah</i> Circuit Courts and <i>Shari'ah</i> District Courts have under PD 1083.</p>

PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines	RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System	BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System	COMMENTS
	also create <i>Shari'ah</i> courts outside the Bangsamoro Autonomous Region in areas considerable number of Muslims reside.		However, RA No. 11054 and BAA No. 13 add a few additional cases that fall within the jurisdiction of Shari'ah Circuit Courts and Shari'ah District Courts within the Bangsamoro Autonomous Region. Please see comments on the jurisdiction of the aforementioned courts below (Article X, Section 5 and 6 of RA 11054; Title V, Sections 3 and 4 of BAA 13)
	Section 3. Sources of Shari'ah. - The following are the sources of <i>Shari'ah</i> : Principal Sources: (a) <i>Al-Qu'ran</i> or the Koran; (b) <i>Al-Sunnah</i> or the traditions of Prophet Muhammas SAW; Secondary Sources: (a) <i>Al-Ijma</i> or Consensus; and (b) <i>Al-Qiyas</i> or Analogy.	Sec. 1. Justice System in the Bangsamoro. – x x x The dispensation of justice in the Bangsamoro Autonomous Region shall be in consonance with the Constitution, <i>Shari'ah</i> , traditional or tribal laws, and other relevant laws. <i>Shari'ah</i> or Islamic law forms part of the Islamic tradition derived from religious precepts of Islam, particularly the <i>Qur'an</i> and <i>Sunnah</i> . x x x	BAA No. 13 recognizes the Philippine Constitution as one of the sources/authorities under the Bangsamoro justice system.
	Article IX Basic Rights, Section 3. Indigenous Peoples Rights. The Bangsamoro Government recognizes the rights of the indigenous peoples and shall adopt measures for the promotion and protection of the following rights: xxx c) justice systems and indigenous political structures;	Sec. 1. Justice System in the Bangsamoro. – x x x The traditional or tribal laws shall be applicable to disputes of indigenous peoples within the Bangsamoro Autonomous Region. The provisions of this Article shall not prejudice the rights of non-Muslims and non-indigenous peoples.	From the Bangsamoro Organic Law to BAA No. 13, there is express recognition to promote and protect the rights of indigenous peoples in the Bangsamoro Autonomous Region.
	Section 4. Powers of the Parliament to Enact Laws Pertaining to Shari'ah. - The Parliament shall have the power to enact laws on personal, family, and property law jurisdiction. The Parliament has the power to enact laws governing commercial and other civil actions not provided for under Presidential Decree No. 1083, as amended, otherwise known as " <i>Code of Muslim Personal Laws of the Philippines</i> ," and criminal jurisdiction on minor offenses	Sec. 3. Power of the Parliament to Enact Laws Pertaining to Shari'ah. - The Parliament shall have the power to enact laws on personal, family, and property law jurisdiction. For this purpose, the Parliament shall enact laws governing commercial and other civil actions not provided for under Presidential Decree No. 1083, as amended, otherwise known as " <i>Code of Muslim Personal Laws of the Philippines</i> ," and criminal jurisdiction on	Article X, Section 4 of RA No. 11054 and Title V, Section 3 of BAA No. 13 have identical provisions. Republic Act No. 11362, or the Community Service Act, passed in 2018, authorizes the courts in its discretion to require community service in lieu of service in jail for offenses punishable by <i>arresto menor</i> .

PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines	RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System	BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System	COMMENTS
	punishable by <i>arresto menor</i> or <i>ta'zir</i> which must be equivalent to <i>arresto menor</i> or fines commensurate to the offense.	minor offenses punishable by <i>arresto menor</i> or <i>ta'zir</i> which must be equivalent to <i>arresto menor</i> or fines commensurate to the offense.	
<p>Article 155. Jurisdiction. The Shari'a Circuit Courts shall have exclusive original jurisdiction over;</p> <p>(1) All cases involving offenses defined and punished under this Code.</p> <p>(2) All civil actions and proceedings between parties who are Muslims or have been married in accordance with Article 13 involving disputes relating to:</p> <p>(a) Marriage;</p> <p>(b) Divorce recognized under this Code;</p> <p>(c) Betrothal or breach of contract to marry;</p> <p>(d) Customary dower (<i>mahr</i>);</p> <p>(e) Disposition and distribution of property upon divorce;</p> <p>(f) Maintenance and support, and consolatory gifts (<i>mut'a</i>); and</p> <p>(g) Restitution of marital rights.</p> <p>(3) All cases involving disputes relative to communal properties.</p>	<p>Section 5. Jurisdiction of the Shari'ah Circuit Courts. - The <i>Shari'ah</i> Circuit Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or both parties are Muslims: <i>Provided</i>, That the non-Muslim party voluntarily submits to its jurisdiction:</p> <p>(a) All cases involving offenses defined and punishable under Presidential Decree No. 1083, <u>where the act or omission has been committed in the Bangsamoro Autonomous Region</u>;</p> <p>(b) All civil actions and proceedings between parties <u>residing in the Bangsamoro Autonomous Region</u> who are Muslims or have been married in accordance with Article 13 of Presidential Decree No. 1083, involving disputes relation to:</p> <p>(1) Marriage;</p> <p>(2) Divorce;</p> <p>(3) Betrothal or breach of contract to marry;</p> <p>(4) Customary dower or <i>mahr</i>;</p> <p>(5) Disposition and distribution of property upon divorce;</p> <p>(6) Maintenance and support, and consolatory gifts; and</p> <p>(7) Restitution of marital rights;</p> <p>(c) All case involving disputes relative to communal properties;</p> <p>(d) All cases involving <i>ta'zir</i> offenses defined and punishable under <i>Shari'ah</i> law enacted by the Parliament punishable by <i>arresto menor</i> or corresponding fine, or both;</p> <p>(e) All civil actions under <i>Shari'ah</i> law enacted by the Parliament involving real property <u>in the Bangsamoro Autonomous Region</u> where assessed value of the property does not exceed Four hundred thousand pesos (₱400,000.00); and</p>	<p>Sec. 4. Jurisdiction of the Shari'ah Circuit Courts. - The <i>Shari'ah</i> Circuit Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or both parties are Muslims: <i>Provided</i>, That the non-Muslim party voluntarily submits to its jurisdiction:</p> <p>a. All cases involving offenses defined and punishable under Presidential Decree No. 1083, <u>where the act or omission has been committed in the Bangsamoro Autonomous Region</u>;</p> <p>b. All civil actions and proceedings between parties <u>residing in the Bangsamoro Autonomous Region</u> who are Muslims or have been married in accordance with Article 13 of Presidential Decree No. 1083, involving disputes relating to:</p> <p>i. Marriage;</p> <p>ii. Divorce;</p> <p>iii. Betrothal or breach of contract to marry;</p> <p>iv. Customary dower or <i>mahr</i>;</p> <p>v. Disposition and distribution of property upon divorce;</p> <p>vi. Maintenance and support, and consolatory gifts; and</p> <p>vii. Restitution of marital rights;</p> <p>c. All case involving disputes relative to communal properties;</p> <p>d. All cases involving <i>ta'zir</i> offenses defined and punishable under <i>Shari'ah</i> law enacted by the Parliament punishable by <i>arresto menor</i> or corresponding fine, or both;</p> <p>e. All civil actions under <i>Shari'ah</i> law enacted by the Parliament involving real property <u>in the Bangsamoro Autonomous Region</u> where the assessed</p>	<p>Article X, Section 5 of RA No. 11054 and Title V, Section 4 of BAA No. 13 provide for the exact same cases where Shari'ah Circuit Courts in the Bangsamoro Autonomous Region shall exercise original jurisdiction.</p> <p>Section 5 of RA No. 11054 and Section 4 of BAA No. 13 expand on the exclusive original jurisdiction of Shari'ah Circuit Courts in the Bangsamoro Autonomous Region provided under Article 155 of PD No. 1083. In particular, items (e) and (f) of both provisions also grant these courts exclusive original jurisdiction over the following:</p> <p>(e) All civil actions under <i>Shari'ah</i> 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</p> <p>(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).</p> <p>Also, in contrast with Article 155(2) of PD No. 1083, under Section 5(b) of RA No. 11054 and Section 4(b) of BAA 13, in order for the case to fall within the exclusive original jurisdiction of Shari'ah Circuit Courts in the Bangsamoro Autonomous Region, the civil actions and proceedings must be between parties who are Muslims residing in the Bangsamoro Autonomous Region or have been married in accordance with Article 13 of PD 1083.</p>

PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines	RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System	BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System	COMMENTS
	<p>(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).</p>	<p>value of the property does not exceed Four Hundred Thousand Pesos (₱400,000.00); and</p> <p>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).</p>	<p>N.B. Under Section 33 of MMAA No. 280, marriages and family relations, succession, and settlement of estate of deceased persons shall be governed by the Shari'ah, the Code of Muslim Personal Laws (PD 1083), the New Family Code, in suppletory character, and MMA 280.</p> <p>N.B. Under Section 43 of MMA No. 280, marriages between Muslims and non-Muslims shall be governed by the law under which the marriage is celebrated.</p>

<p style="text-align: center;">PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p style="text-align: center;">RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p style="text-align: center;">BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p style="text-align: center;">COMMENTS</p>
<p>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; (b) All cases involving disposition, distribution and settlement of the estate of deceased Muslims, probate of wills, issuance of letters of administration or appointment 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 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.</p>	<p>Section 6. Jurisdiction of the Shari'ah District Courts. - The <i>Shari'ah</i> District Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or both are Muslims: <i>Provided</i>, 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 <i>Shari'ah</i> 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, <i>certiorari</i>, <i>habeas corpus</i>, and all other auxiliary writs and processes, in aid of its appellate jurisdiction; (f) Petition for the constitution of a family home, change of name, and commitment of an insane person to an asylum; (g) All other personal and real actions not falling under the jurisdiction of the Shari'ah Circuit Courts wherein the parties involved are Muslims, except those for forcible entry and unlawful detainer, which shall fall under the exclusive original jurisdiction of the Municipal Trial Court;</p>	<p>Sec. 5. Jurisdiction of the Shari'ah District Courts. - The <i>Shari'ah</i> District Courts in the Bangsamoro Autonomous Region shall exercise exclusive original jurisdiction over the following cases where either or both are Muslims: <i>Provided</i>, 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 <i>Shari'ah</i> compliant contracts in which the parties are Muslims, if they failed to specify the law governing their relations; e. All petitions for <i>mandamus</i>, prohibition, injunction, <i>certiorari</i>, <i>habeas corpus</i>, 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 <i>Shari'ah</i> 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;</p>	<p>Article X, Section 6 of RA No. 11054 and Title V, Section 5 of BAA No. 13 provide for the exact same cases where Shari'ah District Courts in the Bangsamoro Autonomous Region shall exercise original jurisdiction.</p> <p>Section 6 of RA No. 11054 and Section 5 of BAA No. 13 expand on the exclusive original jurisdiction of Shari'ah District Courts in the Bangsamoro Autonomous Region provided under Article 143 of PD No. 1083. In particular, items (h) and (i) of both provisions also grant these courts exclusive original jurisdiction over the following: (h) All civil actions under <i>Shari'ah</i> 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 (i) 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).</p> <p>Also, in contrast with Article 143(c) of PD No. 1083, under Section 6(h) of RA No. 11054 and Section 5(h) of BAA No. 13, in order for the case to fall within the exclusive original jurisdiction of Shari'ah District Courts in the Bangsamoro Autonomous Region, the special civil actions for interpleader or declaratory relief must be between parties who are Muslims residing in the Bangsamoro Autonomous Region or the property involved belongs to exclusively to a Muslim and is located in the Bangsamoro Autonomous Region.</p>

<p style="text-align: center;">PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p style="text-align: center;">RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p style="text-align: center;">BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p style="text-align: center;">COMMENTS</p>
<p>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.</p>	<p>(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 <i>Shari'ah</i> 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).</p> <p>The <i>Shari'ah</i> District Court <u>in the Bangsamoro Autonomous Region</u> shall exercise appellate jurisdiction over all cases decided upon the <i>Shari'ah</i> Circuit Courts <u>in the Bangsamoro Autonomous Region</u> within its territorial jurisdiction as provided under Article 144 of Presidential Decree No. 1083, as amended.</p>	<p>h. Autonomous Region; i. All civil actions under <i>Shari'ah</i> 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).</p> <p>The <i>Shari'ah</i> District Court <u>in the Bangsamoro Autonomous Region</u> shall exercise appellate jurisdiction over all cases decided upon the <i>Shari'ah</i> Circuit Courts <u>in the Bangsamoro Autonomous Region</u> within its territorial jurisdiction as provided under Article 144 of Presidential Decree No. 1083, as amended.</p>	<p>Furthermore, Shari'ah District Courts in the Bangsamoro Autonomous Region shall exercise appellate jurisdiction over all cases decided upon the <i>Shari'ah</i> Circuit Courts in the Bangsamoro Autonomous Region within its territorial jurisdiction as provided under Article 144 of PDNo. 1083, as amended.</p>
<p>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.</p>	<p>Section 7. Shari'ah High Court. - There is hereby created <u>within the Bangsamoro territorial jurisdiction</u>, as part of the Philippine judicial system, a <i>Shari'ah</i> High Court. It shall exercise exclusive original jurisdiction over the following cases where either or both parties are Muslims: <i>Provided</i>, That the non-Muslim party voluntarily submits to its jurisdiction: (a) All petitions for <i>mandamus</i>, prohibition, injunction, <i>certiorari</i>, <i>habeas corpus</i>, and all other auxiliary writs and processes, in aid of its appellate jurisdiction; and (b) All actions for annulment of judgements of <i>Shari'ah</i> District Courts. The Shari'ah High Court shall exercise exclusive appellate jurisdiction over cases under the <u>jurisdiction of the Shari'ah District Courts within or outside the Bangsamoro Autonomous Region</u>.</p>	<p>Sec. 6. Shari'ah High Court. - There is hereby created within the Bangsamoro territorial jurisdiction, as part of the Philippine judicial system, a <i>Shari'ah</i> High Court. It shall exercise exclusive original jurisdiction over the following cases where either or both parties are Muslims: <i>Provided</i>, That the non-Muslim party voluntarily submits to its jurisdiction: a. All petitions for <i>mandamus</i>, prohibition, injunction, <i>certiorari</i>, <i>habeas corpus</i>, and all other auxiliary writs and processes, in aid of its appellate jurisdiction; and b. All actions for annulment of judgments of <i>Shari'ah</i> District Courts <u>within outside the Bangsamoro Autonomous Region</u>. The decisions of the <i>Shari'ah</i> High Court shall be final and executory except on questions of law which may be raised before the Supreme Court following the procedure for appeals</p>	<p>RA No. 11054 created the Shari'ah High Court, which does not have any counterpart under PD No. 1083.</p> <p>Most notably, under RA No. 11054, the Shari'ah High Court <u>shall exercise exclusive appellate jurisdiction over cases under the jurisdiction of the Shari'ah District Courts within or outside the Bangsamoro Autonomous Region</u>. Under BAA No. 13, however, said provision states the Shari'ah High Court has power to take cognizance of all actions for annulment of judgments of Shari'ah District Courts <i>within outside the Bangsamoro Autonomous Region</i>. It is submitted the latter is typographical error. The intent is to reproduce the wording of the law in RA No. 11054 otherwise it will suffer from legal infirmity.</p>

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
	<p>The decisions of the <i>Shari'ah</i> High Court shall be final and executory except on questions of law which may be raised before the Supreme Court following the procedure for appeals from the Court of Appeals to the Supreme Court. Nothing contained herein shall affect the original and appellate jurisdiction of the Supreme Court as provided in the Constitution. Pending the complete organization of the <i>Shari'ah</i> High Court, the decisions of the <i>Shari'ah</i> Courts shall be appealable to the Court of Appeals.</p>	<p>from the Court of Appeals to the Supreme Court. Nothing contained herein shall affect the original and appellate jurisdiction of the Supreme Court as provided in the Constitution.</p>	<p>Section 7 of RA No. 11054 also provides that, pending the complete organization of the Shari'ah High Court, the decisions of the Shari'ah Courts shall be appealable to the Court of Appeals.</p> <p>Furthermore, the creation of the Shari'ah High Court under RA No. 11054 seems to have impliedly repealed in part Article 145 of PD 1083 which provides that decisions of Shari'ah District Courts, whether on appeal from the Shari'ah Circuit Court or not, shall be final. This is because the Shari'ah High Court now exercises appellate jurisdiction over the decisions of Shari'ah District Courts. <u>It must be highlighted, however, the provision does not explicitly state that Shari'ah High Courts have jurisdiction over all decisions by Shari'ah District Courts.</u></p>
<p>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.</p> <p>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.</p>	<p>Section 8. Qualifications of Shari'ah Judges. -</p> <p>(a) <i>Shari'ah</i> Circuit Court - No person shall be appointed judge of the <i>Shari'ah</i> Circuit Court unless a citizen of the Philippines who is a Muslim, a regular member of the Philippine Bar, at least thirty (30) years of age, must have been engaged in the practice of law for five (5) years or more, and has completed at least two (2) years of <i>Shari'ah</i> or Islamic Jurisprudence.</p> <p>(b) <i>Shari'ah</i> District Court - No person shall be appointed judge of the <i>Shari'ah</i> District Court unless a citizen of the Philippines who is a Muslim, a regular member of the Philippine Bar, at least thirty-five (35) years of age, must have been engaged in the practice of law for ten (10) years or more, and has completed at least two (2) years of <i>Shari'ah</i> or Islamic Jurisprudence.</p> <p>(c) <i>Shari'ah</i> High Court - No person shall be appointed as justice of the <i>Shari'ah</i> High Court unless a natural-born citizen of the Philippines who is a Muslim, a regular member of the</p>	<p>Sec. 10. Qualifications of Shari'ah Judges. -</p> <ol style="list-style-type: none"> <i>Shari'ah</i> Circuit Court - No person shall be appointed judge of the <i>Shari'ah</i> Circuit Court unless a citizen of the Philippines who is a Muslim, a regular member of the Philippine Bar, at least thirty (30) years of age, must have been engaged in the practice of law for five (5) years or more, and has completed at least two (2) years of <i>Shari'ah</i> or Islamic Jurisprudence. <i>Shari'ah</i> District Court - No person shall be appointed judge of the <i>Shari'ah</i> District Court unless a citizen of the Philippines who is a Muslim, a regular member of the Philippine Bar, at least thirty-five (35) years of age, must have been engaged in the practice of law for ten (10) years or more, and has completed at least two (2) years of <i>Shari'ah</i> or Islamic Jurisprudence. <i>Shari'ah</i> High Court - No person shall be 	<p>Article X, Section 8 of RA No. 11054 and Title V, Section 10 of BAA No. 13 have identical provisions. These provisions made some substantial amendments to the qualifications of judges under PD No. 1083.</p> <p>For Shari'ah Circuit Court judges, the following amendments were made:</p> <ul style="list-style-type: none"> - The person need only be a citizen since RA No. 11054 deleted the word "natural-born" preceding it. - The person must now be a regular member of the Philippine Bar. - The minimum age was raised from twenty-five (25) to thirty (30) years. - The person must have been engaged in the practice of law for five (5) years or more, <u>and</u> has completed at least two (2) years of Shari'ah or Islamic jurisprudence. <p>N.B. Article 152 of PD No. 1083 provides that</p>

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
	<p>Philippine Bar, at least forty (40) years of age, must have been engaged in the practice of law for fifteen (15) years or more, and has completed at least two years of <i>Shari'ah</i> or Islamic Jurisprudence.</p> <p>A <i>Shari'ah</i> Justice or Judge must be a person of competence, integrity, probity, and independence.</p> <p>The Supreme Court may grant the incumbent <i>Shari'ah</i> District and Circuit Court judges who are not regular members of the Philippine Bar a reasonable period within which to qualify, pending which they shall allowed to continue discharging their duties.</p>	<p>appointed as justice of the <i>Shari'ah</i> High Court unless a natural-born citizen of the Philippines who is a Muslim, a regular member of the Philippine Bar, at least forty (40) years of age, must have been engaged in the practice of law for fifteen (15) years or more, and has completed at least two years of <i>Shari'ah</i> or Islamic Jurisprudence.</p> <p>A <i>Shari'ah</i> Justice or Judge must be a person of competence, integrity, probity, and independence.</p> <p>The Supreme Court may grant the incumbent <i>Shari'ah</i> District and Circuit Court judges who are not regular members of the Philippine Bar a reasonable period within which to qualify, pending which they shall allowed to continue discharging their duties.</p>	<p>no person shall be appointed as a <i>Shari'ah</i> Court Circuit Judges unless the person has passed an examination in the <i>Shari'ah</i> and Islamic jurisprudence given by the Supreme Court. Although Article X, Section 8 of RA No. 11054 makes no mention of such examination, Section 12 provides for a Special Bar Examinations for admission of applicants to the Philippine Bar as special members thereof to practice law in <i>Shari'ah</i> courts.</p> <p>For <i>Shari'ah</i> District Court judges, instead of making reference to the qualifications of the Court of First Instances judges, RA 11054 now specifies that:</p> <ul style="list-style-type: none"> - The person must be a citizen of the Philippines who is a Muslim. - The minimum age is thirty-five (35) years old. - The person must have been engaged in the practice of law for ten (10) or more, and has completed at least two (2) years of <i>Shari'ah</i> or Islamic jurisprudence. <p>RA No. 11054 also introduced the qualifications for <i>Shari'ah</i> High Court judges, which did not previously exist.</p>
	<p>Section 9. <i>Composition of the Shari'ah High Court.</i> The <i>Shari'ah</i> High Court shall be composed of five (5) Justices, including the Presiding Justice.</p>	<p>Sec. 7. Composition and Organization of the Shari'ah High Court. - The <i>Shari'ah</i> High Court shall be composed of five (5) Justices, including the Presiding Justice.</p> <p>The Parliament may recommend to the Supreme Court the complete organization of the <i>Shari'ah</i> High Court in Cotabato City, where the seat of the Bangsamoro Government is located.</p> <p>Sec. 8. Shari'ah High Court Administrator and Clerk of Court. - The Supreme Court shall, upon recommendation of the Presiding Justice</p>	<p>BA No. 113 adds to RA No. 11054 by providing that the Parliament may recommend to the Supreme Court the establishment of the <i>Shari'ah</i> High Court in Cotabato City, where the seat of the Bangsamoro Government is located.</p>

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
		<p>of the <i>Shari'ah</i> High Court, appoint the court administrator and clerk of court of the High Court. Such other personnel as may be necessary for the <i>Shari'ah</i> High Court shall be appointed by the Presiding Justice of said court.</p> <p>The pertinent provisions of existing law regarding the qualifications, appointments, compensations, functions, duties, and other matters relative to the personnel of the Court of Appeals shall apply to those of the <i>Shari'ah</i> High Court.</p>	
<p>Article 139. <i>Appointment of judges.</i> 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.</p> <p>Article 141. <i>Tenure.</i> 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.</p> <p>Article 142. <i>Compensation.</i> Shari'a District judges shall receive the same compensation and enjoy the same privileges as the judges of Courts of First Instance.</p> <p>Article 151. <i>Appointment of judges.</i> Each Shari'a Circuit Court shall be presided over by a Shari'a Circuit Judge to be appointed by the President of the Philippines.</p> <p>Article 153. <i>Tenure.</i> 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.</p> <p>Article 154. <i>Compensation.</i> Shari'a Circuit judges shall receive the same compensation and enjoy the same privileges as judges of Municipal Circuit</p>			<p>PD No. 1083 provides for the rules on the appointment, tenure, and compensation of Shari'ah District Court and Shari'ah Circuit Court judges.</p>

PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines	RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System	BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System	COMMENTS
Courts.			
	<p>Section 10. Compensation, Benefits, Tenure, and Privileges. - Justices of the <i>Shari'ah</i> High Court shall have the same rank, prerogatives, salaries, allowances, benefits, tenure, and privileges as the Justices of the Court of Appeals.</p> <p>Judges of the <i>Shari'ah</i> District Courts shall have the same rank, prerogatives, salaries, allowances, benefits, tenure, and privileges as judges of the Regional Trial Court.</p> <p>Judges of the <i>Shari'ah</i> Circuit Courts shall have the same rank, prerogatives, salaries, allowances, benefits, tenure, and privileges as judges of the Municipal Trial Court.</p>	<p>Sec. 9. Compensation, Benefits, Tenure, and Privileges. - Justices of the <i>Shari'ah</i> High Court shall have the same rank, prerogatives, salaries, allowances, benefits, tenure, and privileges as the Justices of the Court of Appeals.</p> <p>Judges of the <i>Shari'ah</i> District Courts shall have the same rank, prerogatives, salaries, allowances, benefits, tenure, and privileges as judges of the Regional Trial Court.</p> <p>Judges of the <i>Shari'ah</i> Circuit Courts shall have the same rank, prerogatives, salaries, allowances, benefits, tenure, and privileges as judges of the Municipal Trial Court.</p> <p>Pending the complete organization of the <i>Shari'ah</i> High Court, the decisions of the <i>Shari'ah</i> Courts shall be appealable to the Court of Appeals.</p>	<p>Article X, Section 10 of RA No. 11054 and Title V, Section 9 of BAA No. 13 have identical provisions.</p> <p>However, Title V, Section 9 of BAA 13 adds that, pending the complete organization of the <i>Shari'ah</i> High Court, the decisions of the <i>Shari'ah</i> Courts shall be appealable to the Court of Appeals.</p>
<p>Article 148. Special procedure. The Shari'a District Courts shall be governed by such special rules of procedure as the Supreme Court may promulgate.</p> <p>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.</p> <p>Article 158. Special procedure. The Shari'a Circuit Courts shall be governed by such special rules of procedure as the Supreme Court may promulgate.</p> <p>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.</p>	<p>Section 11. Shari'ah Rules of Court. - The existing Special Rules of Procedure in <i>Shari'ah</i> courts shall continue to be in force and effect until the Supreme Court promulgates a new <i>Shari'ah</i> Rules of Court.</p>		<p>Under RA No. 11054, the existing special rules of procedure in Shari'ah court shall continue to be in force and effect until the Supreme Court promulgates a new Shari'ah Rules of Court.</p>
	<p>Section 12. Special Bar Examinations for Shari'ah. - The Supreme Court shall administer <i>Shari'ah</i> Special Bar Examinations for admission of applicants to the Philippine</p>		<p>As mentioned, Article 152 of PD No. 1083 provides that no person shall be appointed as a Shari'ah Court Circuit Judges unless the person has passed an examination in the</p>

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
	<p>Bar as special members thereof to practice law in <i>Shari'ah</i> courts. A successful examinee who has qualified for special membership in the Philippines Bar shall be duly conferred the title of counselor-at-law.</p>		<p>Shari'ah and Islamic jurisprudence given by the Supreme Court. Although Article X, Section 8 of RA No. 11054 makes no mention of such examination, Section 12 provides for Special Bar Examinations for admission of applicants to the Philippine Bar as special members thereof to practice law in <i>Shari'ah</i> courts.</p>
	<p>Section 13. Practice of Law Before Shari'ah Courts. - The following are eligible to practice before <i>Shari'ah</i> courts: (a) A <i>Shari'ah</i> counselor-at-law; and (b) A regular member of the Philippine Bar: <i>Provided</i>, That a Muslim, or non-Muslim who submits to the jurisdiction of the <i>Shari'ah</i> court, who acts on one's behalf as counsel, shall be allowed to appear as such before any <i>Shari'ah</i> court.</p>	<p>Sec. 11. Practice of Law Before Shari'ah Courts. - The following are eligible to practice before <i>Shari'ah</i> courts: a. A <i>Shari'ah</i> counselor-at-law; and b. A regular member of the Philippine Bar: <i>Provided</i>, that a Muslim, or non-Muslim who submits to the jurisdiction of the <i>Shari'ah</i> court, who acts on one's behalf as counsel, shall be allowed to appear as such before any <i>Shari'ah</i> court.</p>	<p>Article X, Section 13 of RA No. 11054 and Title V, Section 11 of BAA No. 13 have identical provisions.</p>
<p>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.</p> <p>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.</p>			
	<p>Section 14. Appointment and Discipline of Shari'ah Court Personnel. - The Supreme Court shall appoint the <i>Shari'ah</i> court personnel and shall have the power to discipline them.</p>	<p>Sec. 12. Appointment and Discipline of Shari'ah Court Personnel. - The Supreme Court shall appoint the <i>Shari'ah</i> court personnel and shall have the power to discipline them.</p>	<p>Article X, Section 14 of RA No. 11054 and Title V, Section 12 of BAA No. 13 have identical provisions.</p>

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	<p>Section 15. <i>Bangsamoro Shari-ah Integrated Bar.</i> - The Supreme Court may adopt the rules for the integration of the <i>Shari'ah</i> Bar under such conditions as it shall see fit in order to raise the standards of the profession and improve the administration of justice in the Bangsamoro Autonomous Region.</p>		
<p>TITLE III JURISCONSULT IN ISLAMIC LAW Article 164. <i>Creation of office and appointment.</i> (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.</p> <p>Article 165. <i>Qualifications.</i> 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.</p> <p>Article 166. <i>Functions.</i> (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</p>	<p>Section 16. <i>Creation of New Offices.</i> - The Parliament may create a <i>Shari-ah</i> public assistance office, a <i>Shari'ah</i> special prosecution service, a <i>Shari'ah</i> academy, and the Office of the Jurisconsult of Islamic Law. Pending the creation of the <i>Shari'ah</i> special prosecution service, the existing national prosecution service of the Department of Justice shall prosecute criminal case before the <i>Shari'ah</i> courts.</p>	<p>B. SHARI'AH PUBLIC ASSISTANCE OFFICE Sec. 13. Composition. - There is hereby created a <i>Shari'ah</i> Public Assistance Office, to be headed by a director assisted by two (2) counselors who are members of the Philippine <i>Shari'ah</i> Bar. They shall be assisted by an immediate staff. The director and two (2) <i>Shari'ah</i> counselors shall be appointed by the Chief Minister. Unless otherwise provided by regional law, the compensation of the director and the <i>Shari'ah</i> counselors shall be equivalent to the salary grade of a Director III and a trial lawyer of the Public Assistance Office, respectively. The <i>Shari'ah</i> Public Assistance Office is hereby established in each of the <i>Shari'ah</i> judicial districts to provide free legal assistance to poor or indigent party litigants. In the absence of an appropriate ministry or office to which the <i>Shari'ah</i> Public Assistance Office may be attached, it shall, in the interim, be attached to the Office of the Chief Minister. Sec. 14. Functions. - The <i>Shari'ah</i> Public Assistance Office shall have the following functions: 1. Provide free legal assistance to indigent party litigants with cases before the <i>Shari'ah</i> Courts; 2. Prepare and file petitions, complaints and/or responsive pleadings, and represent indigent defendants in ordinary civil actions before the <i>Shari'ah</i> Courts; 3. Prepare and file responsive pleadings</p>	<p>Pursuant to Article X, Section 16 of RA No. 11054, a <i>Shari'ah</i> Public Assistance Office and a <i>Shari'ah</i> Special Prosecution Service were created under BAA No. 13.</p> <p>Title V, B, Sections 13 and 14 provide the composition and functions of the <i>Shari'ah</i> Public Assistance Office.</p> <p>Title V, C, Sections 15 and 16 provide the composition and functions of the <i>Shari'ah</i> Prosecution Service.</p>

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
<p>legal opinions.</p> <p>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.</p> <p>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.</p>		<p>and represent indigent defendants/respondents in ordinary civil actions, special civil actions, special proceedings before the <i>Shari'ah</i> Courts,</p> <ol style="list-style-type: none"> 4. Prepare affidavits and represent indigents in any stage of criminal proceedings before the <i>Shari'ah</i> Courts; and 5. Perform such other functions as may be assigned by higher authorities. <p>C. SHARI'AH SPECIAL PROSECUTION SERVICE</p> <p>Sec. 15. Composition. - There is hereby created a <i>Shari'ah</i> Special Prosecution Service for <i>Shari'ah</i> administration of justice in the Bangsamoro. The <i>Shari'ah</i> Special Prosecution Service shall be attached to the National Prosecutorial Service of the National Government. The Bangsamoro Government shall recommend the qualified applicants for the position of the <i>Shari'ah</i> prosecutors and personnel of the <i>Shari'ah</i> Special Prosecution Service to the Secretary of Justice of the National Government.</p> <p>Sec. 16. Functions. - The <i>Shari'ah</i> Special Prosecution Service shall have the following functions:</p> <ol style="list-style-type: none"> 1. Assist in the administration of the <i>Shari'ah</i> justice system in the Bangsamoro; 2. Provide legal assistance and advice to any resident of the Bangsamoro Region seeking to file a criminal case in the <i>Shari'ah</i> courts; 3. Conduct the preliminary investigation and prosecution of criminal cases where both parties are Muslims and they fall under <i>Shari'ah</i> Criminal Justice System, as provided for in the Bangsamoro Organic Law; 4. Monitor all criminal cases filed with the <i>Shari'ah</i> Courts, maintain an updated 	

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
		<p>record of the status of each case, and adopt such systems and procedures as will expedite the disposition of such cases; and</p> <p>5. Perform such other functions as may be assigned by higher authorities.</p>	
	<p>Section 17. Traditional or Tribal Justice Systems. The Parliament shall enact laws to promote and support the traditional or tribal justice systems that are appropriate for the indigenous peoples.</p> <p>The indigenous peoples shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms, and order customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.</p> <p>The traditional justice systems are the mechanisms to determine, settle, and decide controversies and enforce decisions involving disputes between members of the indigenous peoples concerned in accordance with the customary laws of these communities.</p>	<p>Sec. 17. Traditional or Tribal Justice Systems.</p> <p>- The indigenous peoples shall have the right to use their commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms, and order customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights. The traditional justice systems are the mechanisms to determine, settle, and decide controversies and enforce decisions involving disputes between members of the indigenous peoples concerned in accordance with the customary laws of these communities.</p>	<p>Article X, Section 17 of RA No. 11054 and Title V, Section 17 of BAA No. 13 have identical provisions.</p>
	<p>Section 18. Office for Traditional or Tribal System. - There is hereby created an Office for Tribal Justice System that shall be responsible for overseeing the study, preservation, and development of the tribal justice system within the Bangsamoro Autonomous Region. The powers and functions of the Office for Tribal Justice System shall be defined by the Parliament.</p> <p>The office for Tribal Justice System shall ensure the full participation of indigenous peoples in the formulation, implementation, and evaluation of policies, related to the strengthening of tribal justice systems: <i>Provided</i>, That such system shall maintain their indigenous character in</p>	<p>Sec. 18. Office for Traditional or Tribal Justice Systems. – The Office for Traditional or Tribal Justice Systems is hereby created, with the primary responsibility of overseeing the study, preservation, and development of traditional or tribal justice systems within the Bangsamoro Autonomous Region. It shall be attached to the Office of the Chief Minister. The Office for Traditional or Tribal Justice Systems shall ensure the full participation of Moro or non-Moro indigenous peoples in the formulation, implementation, and evaluation of policies, related to the strengthening of tribal justice systems: <i>Provided</i>, That such system shall maintain their indigenous character in accordance with the respective</p>	<p>Pursuant to Article X, Section 18 of RA No. 11054, the composition and functions of the Office for Traditional or Tribal Justice Systems were defined under BAA 13 (Title V, Sections. 19 and 20).</p> <p>It must also be noted that under Title V, Section 18 of BAA No. 13, the Office for Traditional or Tribal Justice System was made an attached office to the Office of the Chief Minister of the Bangsamoro Government.</p>

<p>PD No. 1083 (1977) Code of Muslim Personal Laws of the Philippines</p>	<p>RA No. 11054 (2018) Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao with regard to ARTICLE X: Bangsamoro Justice System</p>	<p>BAA No. 13 (2019) Bangsamoro Administrative Code with regard to Book III, TITLE V: The Bangsamoro Justice System</p>	<p>COMMENTS</p>
	<p>accordance with the respective practices of each tribe.</p>	<p>practices of each tribe.</p> <p>Sec. 19. Composition. - The Office for Traditional or Tribal Justice Systems shall be headed by a Director II and assisted by support staff, all of whom shall be appointed by the Chief Minister. Appointees shall preferably be members of tribal communities.</p> <p>Sec. 20. Functions. - The Office for Traditional or Tribal Justice Systems shall have the following functions:</p> <ol style="list-style-type: none"> 1. Conduct the study and preservation of traditional or tribal justice systems within the Bangsamoro Autonomous Region; 2. Promote the development, formulation, implementation, and evaluation of policies, related to the strengthening of tribal justice systems; 3. Coordinate with ministries, offices and agencies within the Bangsamoro Autonomous Region to ensure meaningful and timely consultation with tribal leaders in relation to item (b); and 4. Perform such other functions as may be assigned by the Chief Minister and higher authorities. 	
	<p>Section 19. Regular Courts. - Regular courts in the Bangsamoro Autonomous Region shall continue to exercise their judicial functions, as provided by <u>national</u> law.</p>	<p>Sec. 21. Regular Courts. - Regular courts in the Bangsamoro Autonomous Region shall continue to exercise their judicial functions, as provided by law.</p>	<p>Almost identical, the word “national” was removed in Title V, Section 21 of BAA 13.</p>
	<p>Section 20. Alternative Dispute Resolution. - The Bangsamoro Government shall adopt the principles of conciliation and mediation in settling disputes, with the Parliament enacting the necessary legislation to institute the mechanism for alternative dispute resolution. The <i>Shari'ah</i> courts and traditional or tribal adjudicatory tribunals may utilize this mode of settlement and resolution of cases.</p>	<p>Sec. 22. Alternative Dispute Resolution. - The Bangsamoro Government adopts the principles of conciliation and mediation in settling disputes, with the Parliament enacting the necessary legislation to institute the mechanism for alternative dispute resolution. The <i>Shari'ah</i> courts and traditional or tribal adjudicatory tribunals may utilize this mode of settlement and resolution of cases.</p>	<p>Article X, Section 20 of RA No. 11054 and Title V, Section 22 of BAA No. 13 have identical provisions.</p>

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<p>TITLE II THE AGAMA ARBITRATION COUNCIL</p> <p>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.</p> <p>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.</p> <p>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</p>			<p>Under Article 160 of PD No. 1083, the Shari'ah District Court or the Shari'ah Circuit Court may, in appropriate cases, constitute an Agama Arbitration Council. The Court may do so in cases of <i>divorce by talag and tafwid</i> (Article 161), <i>subsequent marriages</i> (Article 162), and <i>offenses against customary law</i> (Article 163).</p> <p>N.B. Under Sec. 38 of MMA 280, divorce shall be valid and effective only after the exhaustion of all possible means of reconciliations as provided in the Holy Qur'an and <u>pursuant to the provisions of PD No. 1083.</u></p> <p>N.B. The other requirements for contracting subsequent marriages are found under Sec. 40 of MMA No. 280. These are the following: (a) physical and economic capability of the man; (b) capability of the husband to equal treatment; (c) the subsequent marriage must be under exceptional circumstances; and (d) the contracting parties of the subsequent marriage should have undergone pre-marriage counseling.</p>

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<p>to the proposed marriage, the Court shall, subject to Article 27, decided whether or not to sustain her objection.</p> <p>Article 163. <i>Offenses against customary law.</i> 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.</p>			

Notes on the three above laws in relation to MMAA 280 and MMAA 292

With regard to possible changes and conflicts in personal laws with the issuance of Muslim Mindanao Autonomy Act No. 280 ("MMAA No. 280") and Muslim Mindanao Autonomy Act No. 292, there is little departure from the provisions of P.D. 1083. In [articular, Section 33 of MMAA 280 provides that "[m]arriages and family relations, succession, and settlement of estate of deceased persons shall be governed by the Shari'ah, the Code of Muslim Personal Laws (P.D. 1083), the New Family Code, in suppletory character, and [MMA 280]."¹ In other words, PD No. 1083 remains to be in force and MMAA No. 280 makes references to PD No. 1083. To illustrate, under Section 38 thereof, MMAA No. 280 states that "divorce shall be valid and effective only after the exhaustion of all possible means of reconciliations as provided in the Holy Qur'an and pursuant to the provisions of PD 1083 [emphasis supplied]".²

¹ BARMM MMA No. 280 (Dec 6, 2010), sec. 33

² BARMM MMA No. 280 (Dec 6, 2010), sec. 38