



PROCEEDINGS 2026-16

Islamic Studies Program

Proceedings of the Policy Dialogue on Presidential Decree No. 1083

01-02 September 2025

G/F, Ang Bahay ng Alumni, UP CIDS, UP Diliman, Quezon City

Nashwina A. Rasul and Camille Lucille A. Bello



UNIVERSITY OF THE PHILIPPINES
CENTER FOR
INTEGRATIVE AND
DEVELOPMENT
STUDIES

ISSN 2718-9295 (PRINT)
ISSN 2718-9309 (ONLINE)



PROCEEDINGS 2026-16

Islamic Studies Program

Proceedings of the Policy Dialogue on Presidential Decree No. 1083

01-02 September 2025

G/F, Ang Bahay ng Alumni, UP CIDS, UP Diliman, Quezon City

Nashwina A. Rasul and Camille Lucille A. Bello

UP CIDS PROCEEDINGS

2026-16

UP CIDS Proceedings is published by the

**University of the Philippines
Center for Integrative and Development Studies**

Lower Ground Floor, Ang Bahay ng Alumni
Magsaysay Avenue, University of the Philippines
Diliman, Quezon City 1101

Telephone: (02) 8981-8500 loc. 4266 to 4268 / (02) 8426-0955

Email: cidspublications@up.edu.ph

Website: cids.up.edu.ph



cids.up.edu.ph

**Copyright © 2026
by the UP Center for Integrative and Development Studies**

The views and opinions expressed in this discussion paper are those of the author/s and neither reflect nor represent those of the University of the Philippines or the UP Center for Integrative and Development Studies. No copies can be made in part or in whole without prior written permission from the authors/editors and the publisher.

ISSN 2718-9295 (Print)

ISSN 2718-9309 (Online)

Cover Image Credit

"Photos from the Policy Dialogue on Presidential Decree No. 1083, featuring selected Shari'ah Law experts, set against a backdrop of Lihal and the scales of justice"

Table of Contents

About the Proceedings	vii
Introduction	ix
Revisiting P.D. 1083: Its Functions and Service Delivery to the Muslim Community	1
Strengthening the Shari'ah Justice System in the Philippines: Institutional Reforms, Community Integration, and the Future of P.D. 1083	17
Photos	45

Get your policy papers published.

Download open-access articles.

The Philippine Journal of Public Policy: Interdisciplinary Development Perspectives (PJPP), the annual peer-reviewed journal of the UP Center for Integrative and Development Studies (UP CIDS), welcomes submissions in the form of full-length policy-oriented manuscripts, book reviews, essays, and commentaries. The PJPP provides a multidisciplinary forum for examining contemporary social, cultural, economic, and political issues in the Philippines and elsewhere. Submissions are welcome year-round.

For more information, visit cids.up.edu.ph.

All issues/articles of the PJPP can be downloaded for free.

Get news and the latest publications.

Join our mailing list to get our publications delivered straight to your inbox! Also, you'll receive news of upcoming webinars and other updates.

bit.ly/signup_cids

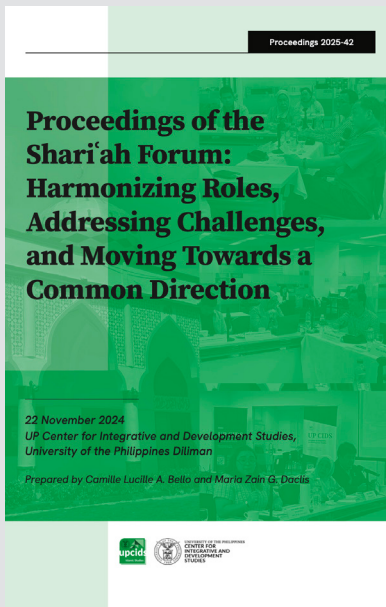
We need your feedback.

Have our publications been useful? Tell us what you think.

bit.ly/dearcids

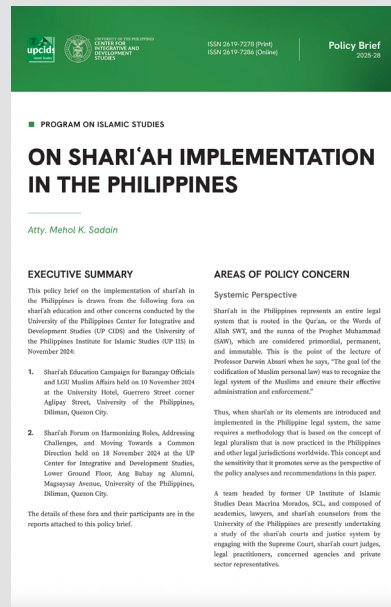
Download related policy papers for FREE

cids.up.edu.ph/collection-database



PROCEEDINGS

Proceedings of the Shari'ah
Forum: Harmonizing Roles,
Addressing Challenges, and
Moving Towards a Common
Direction



POLICY BRIEF

On Shari'ah Implementation
in the Philippines

About the Proceedings

The University of the Philippines Center for Integrative and Development Studies (UP CIDS), in collaboration with the UP Institute of Islamic Studies (UP IIS) and the Bangsamoro Attorney General's Office – Bangsamoro Autonomous Region in Muslim Mindanao (BAGO-BARMM), convened a *Policy Dialogue on the Bangsamoro Shari'ah Academy and Presidential Decree No. 1083* on September 1–2, 2025 at the UP CIDS, G/F Ang Bahay ng Alumni, UP Diliman, Quezon City. The second day of the dialogue was devoted exclusively to discussions on Presidential Decree No. 1083. Consequently, these proceedings cover only the deliberations of the second day.

The second-day sessions centered on a critical review and assessment of Presidential Decree No. 1083, otherwise known as the Code of Muslim Personal Laws (CMPL), with the overarching objective of identifying areas for possible reform and amendment. Since its codification in 1977 and the establishment of the Shari'ah courts in 1985, the CMPL has remained unamended and, to a considerable extent, underexamined in both scholarship and practice. Furthermore, despite its historical and legal significance, the CMPL continues to be relatively unfamiliar to large segments of the Muslim population in the Philippines.

Guided by a collective commitment to strengthening and enhancing the implementation of Shari'ah law in the country, the dialogue brought together subject-matter experts, legal practitioners, scholars, and key stakeholders. Their deliberations sought to generate critical insights and evidence-based perspectives aimed at formulating substantive recommendations for prospective revisions to P.D. No. 1083.

The participants of the dialogue included representatives from various agencies of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), particularly the Bangsamoro Attorney General's Office, Bangsamoro Department Academy, Ministry of Human Settlements and Development, Bangsamoro Darul Ifta, Office of MP Suharto Ambolodto, Office of MP Atty. Sha Elijah B. Dumama-Alba, and the Bangsamoro Transition Authority.

Also in attendance were representatives from other key institutions, such as the National Commission on Muslim Filipinos, the Supreme Court of the Philippines, and the Philippine Judicial Academy. The academe was likewise represented by the UP Center for Integrative and Development Studies and the

UP Institute of Islamic Studies. Shari'ah practitioners—including counselors, judges, and members of legal institutions—were also present.

These proceedings were written by Ms. Nashwina Rasul, Senior Program Assistant, UP CIDS–ISP, and Ms. Camille Lucille A. Bello, Research Fellow, UP CIDS–ISP.

Introduction

Asst. Prof. Darwin J. Absari, faculty member of the UP Institute of Islamic Studies and Convenor of the UP Center for Integrative and Development Studies, formally opened the Policy Dialogue on Presidential Decree 1083, also known as “The Code of Muslim Personal Laws.” P.D. No. 1083 was codified in 1977 and implemented in 1985 following the establishment of the Shari’ah Courts in the country. Since then, the law has neither been revised nor amended, despite numerous studies pointing to its limitations.

Findings from fieldwork conducted by the UP IIS and UP CIDS-ISP revealed that many Shari’ah courts in Mindanao lack basic resources such as electricity, water, equipment, and even proper furniture. Staff members are often left idle, waiting for clients due to these limitations. These conditions have motivated the UP IIS and UP CIDS-ISP to launch awareness campaigns that encourage Muslims to access and utilize the services of Shari’ah courts.

This situation has also prompted the UP CIDS-ISP to organize a policy dialogue as a platform for discussion among experts, including Shari’ah practitioners from the BARMM, representatives from the University of the Philippines, the National Commission on Muslim Filipinos, the Supreme Court of the Philippines, the Philippine Judicial Academy, as well as other key stakeholders—among them some of the authors of the Code. The dialogue aims to revisit and update P.D. No. 1083 to align it with current developments and the evolving needs of the Muslim *Ummah*.

DISCUSSION POINT 1

Revisiting P.D. 1083: Its Functions and Service Delivery to the Muslim Community

Atty. Datu Michael O. Mastura, one of the authors of P.D. No. 1083, shared valuable insights on the law's current status and challenges. He emphasized that what is lacking is a Philosophy of Law, which he described as essential for understanding the epistemology of law. According to him, this philosophical grounding is particularly important when interpreting the Qur'an, the Sunnah, and other sources of Islamic law, since context provides the key to understanding—and, ultimately, to fostering mutual understanding among people.

He further explained that a fundamental contrast exists when comparing the Western legal framework—built around concepts such as status and rights—with the divine revelation embodied in the provisions of Shari'ah (*surahs* and *ayat*). This contrast becomes even more evident when examining the Code of Muslim Personal Laws as a recognized legal system. Unlike the Catholic legal tradition, where ecclesiastical authority defines the law, Islamic law reverses this order: the canon emerges from codal prohibitions or legislation shaped through the *Ummah* (Muslim community). This difference in foundation, Atty. Mastura noted, often gives rise to problems in interpretation and application.

He also pointed out that under Western law, constitutional law is essentially artificial. By contrast, when Islamic legislation is considered, it gives rise to the science of jurisprudential interpretation (*usul al-fiqh*), which recognizes the diversity of sources that constitute Islamic law. This, in turn, extends to religious law governing family relations in Islam, as well as *adat* law, which reflects customary practices and remains a significant conceptual concern. In simple terms, Atty. Mastura emphasized the importance of reflecting on both the conception of the law and the Lawgiver. The Qur'an serves as the primary source, with Allah as the ultimate Lawgiver. As he noted: “*It is He who commands, but what is the command?*” The command is “*to the right path (Sirat al-Mustaqim).*”

He further highlighted the concept of being “in His presence,” which manifests when a Muslim prays before Allah, seeking guidance. This is why Muslims continually invoke divine enablement (*tawfiq*). Underpinning this is the philosophy of *Ihsan*—to worship Allah as though one sees Him, and if not, to worship with the awareness that He is ever-present.

Muslims do this because ultimate sovereignty belongs to Allah alone—“*He unto whom belongs the sovereignty of the heavens and the earth.*” These concepts of divine authority, sole sovereignty, and Allah as the only Lawgiver emphasize that the command comes from none but God, and obedience is to the right path: “*The command is for none but Allah: He has commanded that you obey none but Him. That is the right path*” (Qur’an 12:40). Similarly, the Qur’an declares: “*Grant me, from Your presence, a ruling authority to aid me*” (Qur’an 17:80), and “*Blessed is He in whose hand is the dominion; and He is over all things competent*” (Qur’an 25:2).

Moreover, Atty. Mastura elaborated on the conception of law, explaining that Shari’ah, together with its sources and its application to both individuals and contemporary society, constitutes the foundation of legality. Alongside this, the rule-making authority of the *Ummah* and the Ruler collectively form the basis of Islamic legislation. The *Ummah* exercises a derivative rule-making power, always in compliance with Shari’ah.

He further noted that the Theory of Protected Interests in Islam safeguards all persons and prohibits any unwarranted infringement upon them. These protected interests include: Religion (*Din*), Life (*Nafs*), Intellect (*‘Aql*), Posterity (*Nasl*), and Property (*Mal*).

On the problems and issues concerning the Code of Muslim Personal Laws, Atty. Mastura raised the critical question of scope: Should there be a revision, an amendment, or even the establishment of a separate legal system? According to him, if it is to be a revision, then the entire Code must be revisited; but if it is to be an amendment, only specific provisions will be selected for change.

He outlined several areas that could be studied further and considered for revision, such as:

- The status of personal law in relation to family law in contemporary Philippine society.

- The protection of women in matters of registration, maintenance of the spouse, and the validity of marriage.
- The protection and custody of children within marriage.
- The distinction between legal separation under the Family Code and judicial separation under the Code of Muslim Personal Laws.
- The rules on joint property acquired during marriage.

In the concluding part of his discussion, Atty. Mastura emphasized the need to study the *adat* system (*adat* as concept and culture). Specifically, he called for examining the present status of *adat* as law within a plural legal system, as well as its role in the ethnography of law (*agama* or the administration of justice).

Asst. Prof. Absari suggested assessing P.D. No. 1083, identifying the problems in its implementation. His efforts included highlighting challenges encountered in the Shari'ah courts and identifying strategies to strengthen the law based on lessons learned from its application.

Atty. Ishak Mastura recounted the circumstances surrounding the enactment of the Code of Muslim Personal Laws during the administration of former President Ferdinand Marcos. He explained that while the Code had already been completed, its signing was delayed. It was only upon the visit of a delegation from the Organization of Islamic Conference (OIC)—before whom the government sought to demonstrate its commitment to addressing the concerns of Muslims in the Philippines—that the Code was formally produced and signed by the President. He emphasized that the Code faced considerable challenges in its adoption and that external pressure from the OIC played a crucial role in ensuring its existence.

Atty. Michael Mastura supported this account by recounting the journey of P.D. No. 1083. He noted that its signing took time, but it was eventually advanced through the support of the government and the efforts of Muslim representatives serving in the national government. He remarked that, in many ways, it also required signs from nature and divine intervention for President Marcos Sr. to finally sign the decree. Atty. Mastura further expressed his gladness that P.D. No. 1083 is now receiving renewed attention and recognition, describing it as part of the heritage of the Muslim community.

Asst. Prof. Absari highlighted that the policy dialogue is not an avenue to disregard what was started, but to continue the legacy by looking at ways to strengthen as Muslims are directly involved in the implementation of Shari'ah.

Judge Kaudri L. Jainul, Presiding Judge of the Shari'ah Circuit Court in Isabela, Basilan, shared his experiences and insights on the application of the *Code of Muslim Personal Laws*. Drawing from his judicial practice, he discussed issues related to amendments and interpretation of the Code, particularly with reference to Article 13, which provides that marriages are to be solemnized in accordance with Muslim law "in any part of the Philippines." This, he noted, could be read as implying that marriages conducted outside the country fall outside the jurisdiction of the Shari'ah courts in the Philippines.

He illustrated this through a case involving a Singaporean Muslim citizen married to a British national, whose marriage was registered with the Shari'ah Court of Singapore. The couple later sought a mutual divorce. Judge Jainul advised them that since both were foreigners, the matter fell within the jurisdiction of the Shari'ah court that had registered their marriage. He wrote to the judge in Singapore to inquire whether a decree of divorce could be issued. Upon receiving a favorable reply recognizing his decision, Judge Jainul accepted the petition and issued the divorce.

From this experience, Judge Jainul emphasized that the *Code of Muslim Personal Laws* effectively follows Muslims wherever they go. He also forwarded his decision to the Supreme Court of the Philippines, which did not raise any objection. In his view, this demonstrated that the venue of marriage solemnization for Filipino Muslims should not be a source of legal difficulty, contrary to the restrictive reading of Article 13.

Asst. Prof. Absari then formally introduced Atty. Mehol K. Sadain, attorney-at-law and Shari'ah counselor, who presented his points on amending P.D. No. 1083. Atty. Sadain explained that amending a law requires three essential steps. The first is enhancing, which involves expanding its scope through additional operative provisions, improving effectiveness by addressing gaps and loopholes, and streamlining procedures or clarifying principles and terminologies to strengthen implementation. The second is updating, which entails responding to contemporary changes and ensuring that the law keeps pace with present and future needs. The third is correcting, which means aligning the provisions with the true essence and intent of the law, in this case Islamic law, and addressing errors and inconsistencies that arise in its implementation.

In discussing specific provisions of P.D. No. 1083 that need enhancement, Atty. Sadain highlighted the need to enhance the provisions on communal property under Article 173. He explained that the enumerations should be made more precise and connected to customary contracts, specifically in defining customary heirlooms (inherited artifacts and implements) and ancestral property (plots, shrines, and court areas). He also recommended expanding the concept of charitable trust to explicitly include *waqf* and suggested institutionalizing *waqf* as part of communal property. Furthermore, he stressed that Article 174 on the administration and disposition of communal property should be spelled out clearly, while Article 175 on customary contracts should also be institutionalized by providing corresponding definitions and procedural steps, including the recognition of *rahn* (pledge). Lastly, he called for clarification of Article 18 on the primary authority of the *wali* of the bride to solemnize marriage, to avoid conflicts with agencies such as the Philippine Statistics Authority (PSA).

Regarding the updating of P.D. No. 1083, Atty. Sadain emphasized the need to expand Article 7 on the Definition of Terms to include recent additions to the jurisdiction of the Shari'ah courts, such as Shari'ah-compliant contracts (including halal transactions), as well as amendatory enhancements on customary and Islamic contracts. He further proposed the inclusion of additional provisions on *mubara'ah* or divorce by mutual agreement, should there be an intention to formally recognize it as a valid form of divorce. He also underscored the need to update Articles 181 to 185, particularly on specific offenses and their penalties, to ensure that they serve as more effective deterrents. In addition, he suggested incorporating provisions on *ijma*-generated rules regarding the legitimacy of children, taking into consideration modern practices such as in vitro fertilization.

As to correcting P.D. No. 1083, Atty. Sadain recommended reversing the amendment introduced by R.A. No. 11596 on Article 16, which set the age of contracting marriage and penalized violations thereof. He argued that the provision should be restored to the Shari'ah-sanctioned standard of age of discernment and maturity (*aql baligh*). He also pointed out the need to correct the misinterpretation and application of Article 178, which concerns the effect of conversion to Islam on the marriage of converting or reverting spouses, by clarifying its wording. Moreover, he recommended revising Article 135 on the order of preference of claims, where unpaid dower is currently placed last, after taxes, funeral expenses, debts, legacies, and heirs' shares. He stressed that this arrangement requires correction. Finally, he noted a discrepancy in Article

73 on parental duties to children: the English version enumerates “veneration of national heroes,” which does not reflect the Arabic version. He suggested aligning the English text with its Arabic counterpart to ensure accuracy and consistency.

In concluding his presentation, Atty. Sadain stressed the importance of conducting thorough research and consolidation, noting that his discussion had only scratched the surface of the extensive and meticulous work required to develop a truly responsive and accurate Code of Islamic Family Laws for Muslims in the Philippines. He further emphasized the necessity to abide by Shari’ah, underscoring that the task of amending P.D. No. 1083—a law grounded in Shari’ah—must be undertaken strictly within the bounds of Islamic law. This, he explained, rests upon the immutable commands of the Qur’an and the Sunnah of the Prophet Muhammad (SAW), complemented by the jurisprudential works of the *fuqaha* and *mujtahidun*. Finally, he highlighted the importance of approval and legislation, pointing out that any proposed amendments must undergo rigorous scrutiny not only by legislators—most of whom are non-Muslims and would require orientation—but more critically, by the ‘*ulama*, *fuqaha*, and *asatidz*, through the established methodologies of *shura* (consultation) and *ijma* (consensus).

Judge Kaudri Jainul offered his observations in response to the presentation of Atty. Sadain, focusing on the concept of mubara’ah or divorce by mutual agreement. He noted that this form of divorce is not explicitly enumerated under Article 45 of P.D. No. 1083. However, he recounted a case he handled that eventually reached the Supreme Court—*People vs. Sam Moranos*, a bigamy case elevated from the Shari’ah Circuit Court. In this case, the divorce decree he had issued based on mutual agreement was recognized by the Supreme Court as valid. Consequently, Ms. Sam Moranos could not be charged with bigamy for her subsequent marriage to her second husband.

Judge Jainul emphasized, however, that some Shari’ah Circuit Court judges still do not recognize divorce by mutual agreement since it is not among those expressly listed in the law. Nevertheless, the Supreme Court’s recognition of this form of divorce establishes its validity in jurisprudence.

Atty. Michael Mastura clarified that the omission raised earlier by Judge Jainul was deliberate on the part of the drafters, himself included. He explained that if a person belongs to the Shia tradition, while the Code primarily enumerates the *madhab* of Sunni thought, this does not mean that the Code does not apply to that person. Rather, the provisions of the Code remain applicable

since most of them are universal to Islamic legislation. If, however, a person invokes his or her specific madhahib, it may be applied accordingly, as the provisions of Shari'ah are not limited by sectarian boundaries. He further reminded the body that Shari'ah literally means "the watering way" or the way of life.

Atty. Mastura also stressed the importance of educating the justices of the Supreme Court about the principles of Shari'ah, echoing Atty. Sadain's proposal to institutionalize such education. He underscored that P.D. No. 1083 serves as the "mother law," from which the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) may draw and adopt only those provisions most relevant and applicable to its context by making an autonomy law. The BARMM, he added, may even establish institutions such as a Ministry of *Awqaf* and *Hajj* at the regional level. He emphasized, however, that not all provisions of P.D. No. 1083 are necessary or suitable for the BARMM. In this regard, he expressed agreement with the idea of adopting special legislation or augmenting certain elements of P.D. No. 1083 to better serve the needs of the Bangsamoro.

He stressed, however, that P.D. No. 1083 must not only serve the BARMM but also continue to provide legal guidance and protection for Muslims living outside the region, ensuring that the Code remains a unifying framework for Muslim personal laws across the Philippines.

Atty. Michael Mito-on Ali, Chief of the Legal Affairs Division of the National Commission on Muslim Filipinos (NCMF), directed a question to Atty. Sadain. He raised the possibility of filing declaratory cases before the Shari'ah District Court, which, once elevated and decided by the Supreme Court, could form part of the law of the land through jurisprudence. He explained that under the common law doctrine, only Supreme Court rulings establish binding precedent nationwide. Thus, if a case from the Shari'ah courts were to reach the Supreme Court and result in a ruling, such a decision would acquire national scope.

Atty. Ali further discussed the challenges faced by the BARMM regarding its powers over Shari'ah matters. He cited Article V, Section 2 of the Bangsamoro Organic Law on the extent of legislative powers, noting that the qualifier "subject to the Constitution and national laws" refers to Article X, Section 20 of the 1987 Philippine Constitution. This, he explained, is why courts often turn to national and constitutional commissions for guidance and justification when such questions arise.

He concluded by underscoring that rulings from the judiciary could, in practice, operate like legislation, developing rules through judicial precedent in a manner similar to the common law system.

In response, Atty. Sadain explained that petitions for declaratory relief fall within the jurisdiction of the Shari'ah courts. However, he clarified that the binding effect of such rulings depends on the level of the court. At present, Shari'ah Circuit Courts and Shari'ah District Courts function in a manner comparable to Regional Trial Courts. For greater efficiency and authority, he suggested the establishment of a Shari'ah High Court, before which declaratory relief petitions could be filed. Decisions of such a court, he emphasized, would carry more weight and provide a stronger basis for determining the *Islamicity* of issues, compared to rulings issued solely by Shari'ah District Courts.

On the substantive aspect, Atty. Sadain elaborated that declaratory relief petitions are typically filed in cases where no actual damage has yet occurred, but there is a potential harm or legal uncertainty that needs to be addressed. The purpose of such petitions is to obtain a judicial ruling clarifying the legality or proper interpretation of a law or provision to prevent future disputes. He concluded that filing declaratory relief in Shari'ah courts is possible, as it falls within their jurisdiction, provided that the provision in question is one that merits judicial clarification.

Atty. Hamid Aminoddin D. Barra, former parliament member of the Bangsamoro Transitional Authority (BTA) of the BARMM, shared that they once filed the Bangsamoro Code with the idea that it might serve as an exception to the national law. He clarified, however, that they did not seek to change P.D. No. 1083 but rather to clarify, enhance, and ratify certain provisions. Unfortunately, the proposed measure did not reach the second reading and was eventually archived. Nonetheless, the Office of the Majority Floor Leader has since included it among the priority legislations that may still be taken up by the BTA.

Atty. Michael Mito-on Ali raised concerns regarding the implementation of the Anti-Child Marriage Law. He recounted an experience during a Shari'ah awareness campaign jointly conducted by the NCMF and UP CIDS-ISP in Jolo, where a barangay captain shared a case in which a man who impregnated a woman was killed. He pointed out that situations like this illustrate the serious consequences of the law, particularly since many of the cases he has encountered involve both parties being minors.

He explained that the law places a difficult burden on the *wali*, who becomes torn between following religious teachings, complying with the law, or risking the commission of fornication (*zina*). He also raised concern over the liability of the *wali* or the *imam* who facilitates the marriage. In practice, he noted, the imam merely helps pronounce the customary phrases, while the authority for the marriage comes from the wali.

This issue also extends to the PSA, particularly regarding the requirement of the Certificate of Registration of the Authority to Solemnize Marriage (CRASM). He explained that PSA refuses to register marriages if the CRASM is not signed, even though under P.D. No. 1083, which predates the Family Code, the requirement should not apply.

Given these conflicts, Atty. Ali suggested that any revision, amendment, or clarification of the law should focus on the role of the wali. He emphasized that this concern goes beyond marriage procedures, as it directly intersects with the provisions of the Anti-Child Marriage Law.

Assoc. Prof. Morados, a practicing Shari'ah counselor and faculty member of the UP Institute of Islamic Studies, also shared insights based on their recent engagement in Cavite, where issues surrounding the Anti-Child Marriage Law were discussed. She first pointed out a fundamental concern regarding the definition of a child. Under international conventions, a child is defined as anyone below 18 years old. In Islam, however, the definition differs: once a girl reaches the age of maturity (*akil baligh*), she is no longer considered a child. This creates a conflict between international and Islamic standards. Assoc. Prof. Morados further observed that the Anti-Child Marriage Law disproportionately singles out Muslims and Indigenous peoples, without addressing the root of the problem. She emphasized that there is a lack of data highlighting successful marriages that have long been practiced within Muslim communities. This gap continues to be a dilemma. He suggested that the BARMM Committee on Shari'ah Justice should take action to address this. She also cited positive examples from countries such as Saudi Arabia, Malaysia, and other Islamic nations, where the legal age of marriage is set at 18 but exceptions are allowed under specific circumstances. A similar approach could be considered in the Philippine context for Muslims, to prevent clan conflict (*rido*) and, more importantly, the proliferation of *zina*. Assoc. Prof. Morados also highlighted a contrasting issue: while the Muslim community is often scrutinized for early marriage practices, the bigger problem in non-Muslim communities is the rising incidence of teenage pregnancy—teenagers

bearing illegitimate children without husbands. Finally, on the aspects of P.D. No. 1083 that need improvement, she stressed the importance of the BARMM crafting responsive legislation to fill existing gaps.

Assoc. Prof. Morados also raised a question addressed to Atty. Sadain regarding Article 178 of P.D. No. 1083, concerning the marriage of converted Muslim spouses who later seek divorce. She noted that this provision has often been viewed as a form of circumvention of the law. To illustrate, she shared a case she had handled: both clients were originally non-Muslims who had already separated. Later, the woman married a Muslim military officer. The officer, however, was deeply concerned that if he died, his wife would not be recognized as his heir or beneficiary because she was still legally married to her non-Muslim husband. As the Shari'ah counselor in the case, Assoc. Prof. Morados invoked Article 178, explaining that while it is sometimes criticized as a circumvention of the law, it also provides legitimate remedies in situations such as this. She stressed that there are exceptional cases where Article 178 can be applied to protect the rights and welfare of Muslims. Because of this experience, Assoc. Prof. Morados emphasized the need to revisit and possibly refine Article 178 to address such exceptional cases more clearly.

Atty. Michael Mastura responded that it was excellent that the exceptions cited were those considered as circumventions of the law, since this reflects the very spirit of Article 178.

Judge Kaudri Jainul also shared his views on the Anti-Child Marriage Law. He recalled that ever since the law took effect, he has maintained his stand against its application to Muslims. However, he expressed regret that he was no longer connected with the judiciary, as he is now a retired Shari'ah judge.

Judge Jainul stressed that the Anti-Child Marriage Law does not amend the provisions of P.D. No. 1083. While the law states that provisions on marriage under the Muslim Code are "hereby amended," Article 3 of the Muslim Code explicitly provides that "in case of conflict between the Code and laws of general application, the Muslim Code shall prevail." He emphasized that the Muslim Code was crafted specifically for Muslims as their personal law. He further stated that if he were still on the bench, he would solemnize such marriages and affix his signature on the marriage contract so that the matter could be elevated to the Supreme Court. He expressed confidence that he could argue before the Court that the Muslim Code is intended solely for Muslims, and therefore, they should not be bound by personal laws enacted by Congress that conflict with their Code.

Atty. Ali agreed with the points raised by Assoc. Prof. Morados and Judge Jainul on the issue of the Anti-Child Marriage Law and its impact on Muslims. He shared that in numerous sessions in Congress, it was claimed that consultations had been conducted and that certain leaders expressed that, as far as Muslims were concerned, they had no objection to the law. However, this is contrary to the sentiments gathered during the Shari'ah awareness campaigns conducted by the NCMF, where participants consistently stated that they were neither asked nor consulted on the matter.

Asst. Prof. Absari shared that when the UP IIS were writing the position paper on the bill on anti-child marriage, they mentioned that no one will agree to get jailed because it is either you will be put to jail or commit a sin.

Ms. Johayra Datalan, a practicing Shari'ah counselor and senior lecturer at the UP Institute of Islamic Studies, presented two proposals for the enhancement of P.D. No. 1083 and identified one provision that requires updating. Drawing from her eight years of practice and experience handling cases with the NCMF, she emphasized the need to reconcile P.D. No. 1083 with Bar Matter 5067, which lifted the prohibition on non-Muslims taking the Shari'ah Bar and qualifying as Shari'ah practitioners. This, she explained, creates a gap when compared with the Bangsamoro Organic Law, which expressly provides that Shari'ah judges must be Muslims. In contrast, Articles 140 and 152 of P.D. No. 1083 do not explicitly include this requirement. She stressed that this gap must be addressed to safeguard the integrity of Shari'ah court decisions by ensuring that judges are Muslims.

She also proposed enhancing Article 77, paragraph 2, which provides that a widowed mother loses parental authority in case of remarriage, unless her new husband is related to the child within the prohibited degrees of consanguinity. She observed that Article 78 is silent on the custody of children in cases where a divorced mother remarries. For clarity and consistency, she emphasized the need to address this gap to prevent conflicting interpretations.

For updating, Ms. Datalan pointed to Article 16, which expressly states that there is no adoption in Islam in any form, since the rights of legitimate children should not be equated with those of adopted children. She recalled cases presented to the NCMF by the National Authority for Child Care involving abandoned Muslim children, often due to poverty or unstable family circumstances, such as when a father is involved in drugs and no relatives are willing to care for the child. To address this, she proposed enhancing P.D. No. 1083 by incorporating the Islamic principle of *Kafala*. She explained that

even with the existence of the Domestic Adoption Act of 1998, as amended by the Domestic Administrative Adoption and Alternative Child Care Act, its provisions remain inconsistent with Islamic law. Through *Kafala*, a foster parent assumes responsibility for the care and upbringing of a child and confers inheritance rights, thereby upholding Islamic legal principles while ensuring protection and support for abandoned or neglected children.

Atty. Michael Mastura responded that there are two types of guardianship. The case mentioned by Ms. Datalan would fall under custodial guardianship rather than adoption, emphasizing that *walayah* (guardianship) is permissible in Islam, whereas formal adoption is not.

Atty. Ishak Mastura shared that one of the lessons he learned from his father, Atty. Michael Mastura, is that P.D. No. 1083 is profound because of the depth of its sources in Islamic law. He emphasized that if judges are competent—possessing moral ascendancy, knowledge of Shari’ah, and the ability to rule in accordance with it—the problems cited could be addressed through their rulings. The real challenge, however, lies in the Philippine legal system being a civil code country, where there is a prevailing mindset that everything must be written in the code. In this sense, P.D. No.1083 serves merely as a gateway, and the capacity of the judge becomes vital in ensuring its effective application.

Ustadh Luqman Bin Usman Imam, a practicing Shari’ah counselor and senior lecturer at the UP Institute of Islamic Studies, expressed his support for Atty. Sadain’s suggestion on creating a commentary on P.D. No. 1083 with the participation of the Ulama and Shari’ah practitioners. He emphasized that such a commentary would not only assist Shari’ah judges but also benefit practitioners. Ustadh Imam noted the ongoing research on the codification of Muslim personal law, along with numerous studies—including those critical of codification—arguing that it limits the application of Shari’ah since only what is explicitly codified can be implemented. He pointed out, however, that P.D. No. 1083 contains catch-all provisions. Yet, the Institutional Review and Assessments of the Shari’ah Justice System (IRA-SJS) have revealed that many of these provisions are wrongly interpreted, implemented, or inadequately detailed, not only by Shari’ah judges but also by practitioners themselves. To address this, he reiterated that developing a commentary, ideally organized by the BARMM or NCMF, could be a practical and efficient solution by gathering *ulama* and practitioners to provide insights on each provision.

Ustadh Imam also highlighted Article 4 of P.D. No. 1083 as a well-constructed and well-interpreted provision, as it directs consideration of the primary

sources of Muslim law, and in paragraph 2, accords persuasive weight to the standard practices and works of Muslim jurisprudence (*fiqh*). Finally, he mentioned that in the afternoon session, the group would present the policy recommendations of the IRA-SJS, one of which is to include very detailed provisions on the Shari'ah justice system and the creation of a Shari'ah Justice Reorganization Act.

Atty. Sadain expressed gratitude for the comments and insights shared by Ms. Datlan, Atty. Ishak, and Ustadh Imam. He reiterated his agreement with their points and recalled the three key recommendations he presented earlier. His last point emphasized the three ways by which P.D. No.1083 could be improved: through mandatory work, enhancement or updating, and correction of provisions. He stressed that once completed, such work should undergo scrutiny not only by legislators—most of whom are non-Muslims and therefore require orientation—but more importantly, by the *ulama*, *fugaha*, *asatidz*, and the *mujahid*, following the tested methodologies of *shura* and *ijma*. *Shura*, he noted, is a well-loved principle in the Qur'an. Referring to Article 4, as highlighted by Ustadh Imam, Atty. Sadain explained that in the construction and interpretation of P.D. No. 1083 and other Muslim laws, courts are directed to take into consideration the primary sources of Muslim law. This, he said, “opens up everything,” making Atty. Ishak's point is correct in saying that the Code serves as a gateway to Shari'ah—if judges and practitioners know how to properly apply and navigate it. He also pointed out a positive development: there are now 17 Ulama who have passed the Shari'ah Bar examinations, a significant increase compared to previous years. Looking ahead to the afternoon session, he suggested that discussions focus on possible improvements within the courts, particularly through the development of commentaries or official positions by the Ulama on controversial provisions of the Code of Muslim Personal Laws. This, he argued, would eliminate the need for formal amendments, as such commentaries and positions could be grounded in Article 4, paragraph 2, which accords persuasive weight to standard treatises and works in Muslim law and jurisprudence.

Atty. Jehan-Jehan Lepail, Deputy Executive Director of the NCMF, expressed support for the expansion of the definition of terms under Article 7, noting that Islamic banking is gaining attention from institutions such as the Bangko Sentral ng Pilipinas and the Insurance Commission, which have started issuing their own guidelines on contracts, including Islamic contracts. She emphasized that it would be helpful if such contracts are also defined under Article 7. She further reported that their office has received numerous complaints regarding fraudulent conversions, and she supported the proposal to penalize such acts

through amendments. On the issue of R.A. No. 11596 or the Anti-Child Marriage Law, she shared that during their engagement with barangay captains in Patikul, it was revealed that late registration of marriages is being used as a stopgap measure. She expressed hope that the group would arrive at more effective solutions to address child marriage. Finally, she highlighted that the NCMF serves as a monitoring agency under the said law.

Sheikh Ibrahim Bagumbun, Legislative Officer of the Office of MP Barra, also shared some of his experiences in Saudi Arabia to relate to the principle of *kafala* raised by Ms. Datlan. He explained that in Saudi Arabia, when a person dies, the heirs go to court to request two documents: first, the certification of restriction of heirs (*hasarwarathe*), which is useful for securing assistance from the DSWD or medical aid from the government; and second, the certificate of guardianship, which covers the care of heirs and minors, as well as guardianship over marriage and property. He emphasized that there should be a classification of guardianship. In practice, the Shari'ah judge appoints a relative as guardian for minors, while for property, guardianship may be granted to someone knowledgeable in financial management, even if not a relative (*wilayat al-mal*). For marriage, guardianship refers to the authority to consent to or solemnize the marriage. He suggested that adopting such classifications in the Shari'ah courts in the Philippines could help resolve existing conflicts. Sheikh Bagumbun also raised the issue of conversion. In Saudi Arabia, he explained, it takes six months before a certificate of conversion is issued. During this period, converts are taught basic tenets of Islam in da'wah centers and then referred to the police for security reasons to confirm the sincerity of their intention. Only after this process does the judge issue a certificate of conversion.

Associate Justice Edilwasif T. Baddiri of the Court of Appeals was acknowledged by Asst. Prof. Absari and later shared his comments. He noted that Muslim Filipino judges formally organized themselves two years ago into the Philippine Muslim Judges Association, which has since been recognized by the Supreme Court, with Justice Baddiri serving as its president. According to him, there are currently about 64 to 66 Muslim judges in the country, a very small minority compared to the more than 4,000 judges nationwide. Considering that Muslims make up around 10 percent of the Philippine population, there should ideally be about 400 Muslim judges. He emphasized that representation matters—not only for inclusivity but also for enabling fellow judges to learn from the perspectives of Muslim judges. Assoc. Justice Baddiri also cited that Muslims now have Justice Dimaampao in the Supreme Court and the support of Justice Leonen, who has championed the Shari'ah

Justice System. He mentioned that the Chief Justice crafted the Strategic Plan for Judicial Innovations (SPJI) 2022–2027, where the Shari’ah Justice System is specifically included as part of the judiciary’s commitment to inclusive justice. Hence, he stressed the importance of organizing and continuously lobbying for the interests of Filipino Muslims. He further shared that two months ago, the Supreme Court granted their request to allow Muslim employees and officials of the judiciary to observe holidays during Maulid. Previously, under P.D. No. 1083, such holidays were recognized only in specific regions. At present, efforts continue to push for the establishment of unorganized Shari’ah courts due to the evident need. Justice Baddiri welcomed events like the policy dialogue, underscoring that if there is a call for expansion, the respect for Shari’ah must be pervasive. He also reported that in the Court of Appeals, there is a division in Cagayan de Oro that handles Shari’ah cases; however, only one Muslim judge is part of the division, and not as chair, with two other non-Muslim judges deciding on Shari’ah cases. He advocated for a majority-Muslim composition in such divisions. At the same time, he stressed that Muslims themselves must also avail of Shari’ah court services to strengthen the system further. He concluded by affirming that making Shari’ah law in the Philippines more dynamic, extensive, and pervasive must start with the Muslim community itself.

DISCUSSION POINT 2

Strengthening the Shari'ah Justice System in the Philippines: Institutional Reforms, Community Integration, and the Future of P.D. 1083

At the resumption of the session, Asst. Prof. Darwin Absari briefly recounted the earlier discussions, noting that the morning session had delved into the origins of P.D. No. 1083, the challenges surrounding its implementation, and the struggles faced in its application, as discussed by Atty. Datu Michael Mastura. Additionally, Atty. Mehol Sadain had presented a set of strategies and proposals aimed at fortifying P.D. No. 1083. Another important milestone in this effort was the institutional review conducted under the leadership of former UP Institute of Islamic Studies Dean Macrina Morados. Asst. Prof. Absari expressed the intention to hear the findings of this review, inviting Prof. Morados to present her insights.

Prof. Macrina Morados then provided a succinct overview of the highlights of their study, emphasizing that it was part of the broader effort to enhance the Shari'ah justice system and would soon be presented to the BARMM cabinet. She acknowledged the assistance of the Bangsamoro Attorney General's Office in facilitating the presentation.

Prof. Morados noted that the study, an Institutional Review and Assessment (IRA) of the Shari'ah justice system, drew from various earlier research efforts, including the pioneering 2004 United Nations Development Programme (UNDP) report, which identified gaps in the Shari'ah justice system's implementation. This review forms part of the Strategic Plan for Judicial Innovations (SPJI), a collaborative effort with partners such as the Supreme Court, GoJust, Subatra, and funded by the European Union and Spanish Cooperation.

The study's methodology employed a mixed-methods approach, combining both quantitative data and qualitative insights. Prof. Morados highlighted the various methods used, including surveys, statistical analysis, focus group discussions (FGDs), and key informant interviews (KIIs), conducted in key cities such as Davao, Manila, Zamboanga City, and Cagayan de Oro City. Additionally, roundtable discussions were held with the Moro Islamic Liberation Front (MILF) Shari'ah court in Darapanan, and attendance at the Bangsamoro Justice System committee hearings, led by MP Atty. Jose Lorena, further enriched the study. The final stage of validation was conducted with Shari'ah judges in May 2025, facilitated by Subatra and BAGO.

The theoretical framework of the study was grounded in the policy trajectory and productivity theory, which is underpinned by the principle of legal pluralism. This framework was applied to the Philippine Shari'ah justice system, while the conceptual framework incorporated ideas from Senior Associate Justice Marvic Leonen during the inception phase. The Islamic legal principles that guided the research included concepts such as *Lita Arafu* (justice), *Ihsan* (benevolence), and other core tenets of Shari'ah law. The study also examined the operations of the Shari'ah courts, particularly the accessibility, inclusivity, and competency of the system, recommending that these aspects be rooted in the aforementioned Qur'anic principles.

The study identified several challenges faced by the Shari'ah justice system, which were categorized under the "three-thirds operational crisis," a theme that would be elaborated further by Ustadh Luqman Bin Usman Imam. The second part of the research involved a detailed survey and analysis of data from the Office of the Court Administrator, introducing a court mapping system to display the geographical locations of Shari'ah courts both inside and outside of the BARMM. The research also explored the accessibility of Shari'ah courts for clients, particularly those dealing with issues related to Muslim personal laws, such as marital disputes, which fall under the jurisdiction of P.D. No. 1083 and the Shari'ah courts.

Ustadh Luqman Bin Usman Imam was invited to present the recurring themes that emerged from the research findings and to discuss the policy recommendations that were proposed based on the data gathered. Ustadh Luqman began by summarizing the key results of the IRA of the Shari'ah justice system. He reiterated that the study utilized a mixed-methods approach, combining both qualitative and quantitative techniques. The qualitative data was gathered through a modified SWOT analysis applied across four key locations.

The recurring themes from this analysis suggested that an ideal Shari'ah justice system should be inclusive, responsive, practical, evolving, consistent, just, fair, and comprehensive in its jurisdiction. Emphasis was placed on issues of hybridity and balanced jurisdiction. The research also captured the perspectives of various stakeholders on the current state of the Shari'ah justice system, identifying numerous challenges and recommendations.

The study illuminated the "three-tier crisis" facing the Shari'ah justice system. Although 71 Shari'ah courts are theoretically operational, only 27 are actually organized and functional, with merely 12 appointed judges across the system. Many courts remain underdeveloped or entirely inactive. There are also significant resource shortages that exacerbate the operational crisis. Ustadh Luqman pointed to deficiencies in court infrastructure, with many respondents reporting that they were either unaware of the locations of Shari'ah courts or found the facilities lacking. Furthermore, clerks of court often shoulder a triple burden, acting as registrars, chairpersons of the Agama Arbitration Council (AAC), and handling regular administrative duties.

Additionally, one of the key themes highlighted was the need to establish a Shari'ah High Court and address disparities in marriage certificate processing fees, which are a concern for many stakeholders.

Moving on to the policy recommendations, Ustadh Luqman presented a range of actions categorized into immediate, medium-term, and long-term measures. The immediate actions focused on filling judicial vacancies, establishing a judicial nomination procedure for Shari'ah High Court judges, and strengthening support for Shari'ah counselors. There was also a recommendation to enact comprehensive Shari'ah legislative reform through the Shari'ah Justice Reorganization Act, aimed at amending B.P. Blg. 129 and P.D. No. 1083. Additional recommendations included the modernization of court infrastructure, strategic reform of the Shari'ah bar, and skills development for Shari'ah court staff and judges. Long-term proposals included the establishment of a Shari'ah Academy for judicial training, harmonizing judicial qualifications through legislative reform, and full adoption of competency-based selection processes for judicial appointments.

Following this detailed presentation, Prof. Darwin Absari opened the floor for questions or clarifications. Atty. Datu Michael Mastura raised a critical concern regarding the issue of conflicting access to justice, particularly in relation to the phenomenon of forum shopping. He explained that individuals often seek multiple forums to address their grievances, sometimes bypassing the

Shari'ah courts altogether due to a lack of understanding of their procedures. He asked if this issue had been considered in the study and whether it could be integrated into the overall framework.

In response, Prof. Macrina Morados acknowledged the issue of forum shopping, noting that it had surfaced during their roundtable discussions with the MILF Shari'ah Court in Darapanan. She explained that, prior to their peace agreement with the government, the MILF had its own justice system. However, under the peace agreement, MILF leadership had issued directives not to entertain cases that were already filed in the Shari'ah or regular courts. This had led to a situation where people, especially those in far-flung areas, opted to approach the MILF court due to its proximity and the swift enforcement of decisions, which the Shari'ah courts struggled to match in terms of reach and speed.

Despite these challenges, Prof. Morados emphasized that the Shari'ah courts had been making efforts to increase their visibility and accessibility. The dilemma, however, lies in the fact that the choice ultimately remains with the litigants. Justice Marvic Leonen, upon hearing the findings, suggested the possibility of conducting another roundtable discussion to engage with the MILF court and find a mutually agreeable solution, one that would integrate the MILF court into the broader framework of the Shari'ah justice system. This initiative sought to bridge the divide between the traditional and Shari'ah courts, with the hope of fostering a cooperative, rather than competitive, relationship.

Prof. Morados explained that the Shari'ah court judges acknowledged that the trust and confidence of the people in the system were linked to the competencies of the judges. Some litigants preferred the MILF courts due to the high qualifications of their judges, many of whom held PhDs and were well-versed in Arabic. To resolve the tension, the Supreme Court was exploring ways to legitimize the representation of the MILF court within the broader judicial framework, while ensuring that only one judicial system—the Shari'ah court system—remains recognized by the Supreme Court.

The session continued with MP Atty. Ishak Mastura offering critical insights into the complexities of the Shari'ah justice system, particularly in Lanao. MP Atty. Mastura raised the issue of land disputes, citing an example involving Commander Bravo and a land issue, where the Shari'ah court lacked jurisdiction. He pointed out that, under current provisions, Shari'ah courts are

only authorized to handle cases related to succession, and matters of personal and family relations. This restriction limits the scope of cases that the Shari'ah courts can address, leaving many disputes, especially land-related issues, to be handled by regular trial courts.

The situation becomes more problematic when parties, dissatisfied with the decisions of the regular Regional Trial Courts, turn to the MILF court system to seek a reversal of judgments. MP Atty. Mastura emphasized that, in some instances, the MILF court even issues directives to the Regional Trial Courts, instructing them to follow its rulings. He described this phenomenon as a "slippery slope toward anarchy," highlighting the potential dangers of multiple conflicting court systems. While the MILF court system is recognized and legitimate in the eyes of the people, its increased utilization to assert rights and claims have complicated the existing legal landscape.

Furthermore, MP Atty. Mastura pointed out the ongoing issue of forum shopping, where parties involved in cases engage in a search for the most favorable venue, often navigating between the regular court system and the MILF court. This practice undermines the integrity and efficacy of the legal system, leading to competing and conflicting decisions. In response, MP Atty. Mastura advocated for the integration of the MILF court system within the regular Shari'ah courts, asserting that there should be a single unified judicial system. He reiterated that, although the MILF court could be recognized as part of the alternative dispute resolution (ADR) framework, it should not function as a parallel judicial system. He stressed that the recognition of the MILF court within the ADR framework should be viewed as part of the broader process of integration, noting that the final goal must be the establishment of the rule of law in Moro society.

According to MP Atty. Mastura, historical governance systems, such as those of the Sultanates, had operated with their own laws, which were understood and enforced by local leaders. He questioned why it was now difficult to establish a cohesive rule of law in the modern world, particularly in the context of the Bangsamoro region. He recognized that, while rebel governance once functioned outside the state's legal framework, the integration of these systems into the mainstream judicial process is now necessary. MP Atty. Mastura suggested that if the MILF wanted to engage in legislative efforts, they could do so through the Bangsamoro Parliament, but must operate within the legal framework provided by the Bangsamoro Organic Law (BOL). He firmly argued that the coexistence of two competing legal systems—the government system and the rebel governance system—was untenable in the long run.

Prof. Macrina Morados responded by reiterating the earlier point that the MILF court should be recognized as part of the ADR, but clarified that the Shari'ah court would remain the only judicial body with the authority to resolve cases within its prescribed jurisdiction, specifically related to Muslim personal laws. Prof. Morados emphasized that issues such as land disputes fell outside the jurisdiction of the Shari'ah courts and, thus, could not be adjudicated within this system.

The discussion then shifted back to Asst. Prof. Absari, who brought up the recurring problem of forum shopping, especially as evidenced in Lanao and other regions. He acknowledged that studies on alternative dispute resolution had shown that the MILF court system was attracting a large number of individuals due to the speed and cost-effectiveness of its decisions. He stressed that this dynamic highlighted the urgent need to strengthen P.D. No. 1083 and the operations of the Shari'ah courts. He cited efforts to improve the situation in the island provinces, such as Sulu, where they were developing a Shari'ah awareness campaign aimed at barangay captains. These local leaders, who play a pivotal role in resolving disputes at the community level, were being brought into the campaign to ensure that they had a better understanding of Shari'ah law, particularly in areas like elopement and proper registration procedures.

Despite the efforts to include barangay captains in the Shari'ah campaign, Asst. Prof. Absari acknowledged the challenges of working with local leaders who, in some cases, lacked basic awareness of Shari'ah law. He emphasized the need for educational seminars and capacity-building initiatives for barangay captains, ensuring they understood the nuances of Islamic law and how to effectively administer Shari'ah justice in their communities. He expressed his support for the group's recommendation to include traditional justice systems, like the *Lupon*, within the broader context of ADR. This, he suggested, could help reduce the incidence of forum shopping by ensuring that the Shari'ah justice system was seen as inclusive and accessible at all levels.

Asst. Prof. Absari posed a critical question on harmonizing the operation of various justice systems, such as the *Lupon* and the regular Shari'ah courts, within the larger framework of the Shari'ah justice system. He pointed out that, if the *Lupon* system was integrated into the Shari'ah justice framework, it essentially reduces the practice of forum shopping, as the *Lupon* could be considered part of the overarching Shari'ah justice system. The key challenge, as he saw it, was finding a way to reconcile the different layers of justice systems—traditional and formal—in a way that would streamline the legal process and reduce confusion.

Considering these discussions, Asst. Prof. Absari also revisited a point from the group's earlier presentation, specifically the suggestion to expand the jurisdiction of Shari'ah courts to include commercial transactions. He inquired how the group proposed to integrate this into the broader framework of P.D. No. 1083, particularly in relation to the morning's earlier discussion about creating a commentary on P.D. No. 1083 to facilitate its implementation. This inquiry highlighted the importance of addressing new and emerging issues in the Shari'ah justice system, such as commercial disputes, which were not traditionally within the jurisdiction of Shari'ah courts but are becoming increasingly relevant in the modern context of economic activity within the Bangsamoro.

Thus, the conversation revolved around reconciling the various justice systems operating within the Bangsamoro region, while ensuring that the Shari'ah justice system remains the primary judicial authority over matters within its jurisdiction. The challenge of balancing traditional dispute resolution mechanisms with formal legal systems was recognized as an ongoing issue, with participants considering various ways to integrate these systems without compromising the rule of law.

The discussion shifted to the complexities surrounding the integration of the *Katarungang Barangay* (barangay justice) system with the Shari'ah courts, particularly with respect to how cases can flow from the barangay level to the formal judicial system. The first participant began by addressing the issue of connecting the *Katarungang Barangay* system with the Shari'ah courts. He explained that, in the regular court system, the *Katarungang Barangay* serves as a prerequisite for filing cases. A certification must be obtained from the barangay, stating that no settlement has been reached at the barangay level, before the matter can proceed to court. He suggested that a similar process could be adopted for the Shari'ah courts, where, for instance, if a settlement is reached at the barangay level—such as in cases of marriage or other family disputes—it could trigger the formal judicial process in the Shari'ah court, should the parties desire further legal intervention.

However, the first participant acknowledged that while this process currently works well within the regular court system, there might be complications if it were to be applied within the Shari'ah court framework. These potential complications, he noted, would need further exploration to determine whether this integration would be feasible or face legal challenges. He pointed out a provision in the Bangsamoro Local Governance Code (BLGC), which permits the inclusion of traditional practices and customs in settling disputes at the

barangay level, particularly in barangays with indigenous populations. In such areas, traditional dispute settlements are integrated into the *Katarungang Barangay* system, allowing customary and traditional practices to be preferred in resolving conflicts. However, he emphasized that even in these cases, the process must be formalized, meaning that the outcome of these traditional dispute resolutions must still be documented and submitted to the court as a legal record.

At the same time, the first acknowledged the limitations of this system. There are certain cases that fall outside the jurisdiction of the *Katarungang Barangay*, as outlined by the Bangsamoro Local Government Code (BLGC). For example, disputes related to the civil status of individuals, including marriage, are outside the scope of the barangay's legal authority. He questioned whether such cases, particularly those involving elopement, could be accommodated at the barangay level. He raised the hypothetical scenario of a marriage solemnized by a barangay captain, asking whether such a marriage could be confirmed by the Shari'ah court to trigger the proper registration procedures. While he did not have a definitive answer at the time, he suggested that this could be an area for further exploration, especially if the direction is to create a pathway for cases to flow seamlessly from the barangay level to the Shari'ah courts.

The conversation then took a more urgent tone as Asst. Prof. Absari raised a critical concern: the complications that could arise if a marriage solemnized at the barangay level involves a minor. He highlighted a real-world issue that arose during their Shari'ah campaign in Sulu, where several cases of marriages involving minors had been reported. Asst. Prof. Absari described how barangay captains often felt compelled to marry off minors, fearing moral or social consequences if they failed to do so. However, this practice raises significant legal and ethical concerns, particularly in the context of the Shari'ah court, which would not be able to recognize such marriages due to legal restrictions. He expressed concern over how these situations were being handled and how they could be prevented in the future.

In response to the complexities posed by the integration of the *Katarungang Barangay* system with the Shari'ah courts, a second participant, who had prior experience as a Shari'ah judge in Basilan, shared his insights. He explained that during his tenure, periodic seminars were conducted for barangay captains, particularly those who were Muslim, to help them understand the procedures involved in dispute resolution. The goal of these seminars was to ensure that barangay captains were familiar with the proper channels for handling cases.

The participant emphasized that if barangay captains could not settle a dispute at the barangay level, they were instructed to refer the case to the Shari'ah court. This collaboration was particularly important in matters like marriage registration, where he coordinated with the Philippine Statistics Authority to ensure proper documentation and legal compliance.

In light of these challenges and experiences, the participants agreed that there was a pressing need for clear guidelines and processes to integrate the *Katarungang Barangay* system with the Shari'ah courts. While the system of *Katarungang Barangay* is deeply rooted in the local community, particularly in the context of Moro traditions, there must be a structured approach to ensure that its decisions are recognized and processed in the formal legal system. This integration would require careful consideration of the limits of jurisdiction for both the *Katarungang Barangay* and the Shari'ah courts, as well as the legal implications of cases that involve minors or other sensitive issues, such as marriage. Furthermore, there is a need to ensure that Shari'ah courts are involved in matters that require formal legal documentation, particularly in cases of marriage and family relations, to avoid complications and potential legal challenges.

The exchange underscored the importance of building a coherent framework that connects traditional and formal legal systems, ensuring that Moro communities have access to justice while upholding the integrity of both systems. The need for education, coordination, and formalization of processes was seen as essential to bridging the gap between traditional dispute resolution and the formal judicial structure.

Atty. Ali engaged with the ideas raised in the presentation of Ustadh Luqman, pointing out a recurring theme that had surfaced throughout the focus group discussions: the dual nature of the problem confronting the Shari'ah court system. He explained that one half of the equation lies in the issue of unorganized courts. This situation, he noted, fundamentally contributes to the lack of accessibility and discourages potential litigants from pursuing legal remedies.

People, according to Atty. Ali, are often led to believe that alternative mechanisms—such as traditional courts established by the MILF or even informal systems within family and tribal structures—are more effective than the formal Shari'ah courts. These alternative mechanisms have continued to gain traction primarily because of the institutional void that the current Shari'ah court infrastructure suffers from. He described examples of such

inadequacies: courts with no restrooms, dilapidated buildings, and generally uninviting physical environments. These, he argued, represent the physical manifestation of a broader institutional neglect.

However, Atty. Ali was quick to identify the cyclical nature of the problem. As he recalled from earlier discussions with Ustadh Luqman, this situation is akin to a "chicken-and-egg" dilemma. On one hand, there is little to no incentive for the government or the judiciary to invest in the operational capacities of Shari'ah courts due to the low volume of filed cases. He cited information shared by the Court Administrator in 2023, stating that operating a single court station costs between PHP70–74 million pesos, which includes salaries and the Maintenance and Other Operating Expenses (MOOE). In the absence of sufficient case filings, the judiciary hesitates to commit such substantial resources. Thus, the question arises: Should the administration invest first in establishing and upgrading the courts in the hope that it will encourage usage? Or should they wait until there is demonstrable demand?

He further emphasized that a critical component of lawyering is the act of reassurance. Just as clients seek comfort in knowing that their legal counsel stands by them, litigants need to feel a similar confidence when entering the court system. The psychological effect of encountering a rundown courtroom cannot be overstated—it can erode trust, foster doubts about impartiality, and reinforce perceptions of corruption. Therefore, building institutional trust must begin with enhancing both the physical and procedural infrastructures of the Shari'ah court system. Once again, the core dilemma persists: will enhancing the court's image encourage public engagement, or must public engagement come first before meaningful reform can follow?

He proceeded to elaborate on prior conversations between the National Commission on Muslim Filipinos and the Supreme Court. During these engagements, the Supreme Court had affirmed its willingness to oversee examinations and conduct training for Shari'ah court personnel, despite initial objections from some quarters. The Court also committed to actively promoting the filing of cases, acknowledging that without litigants, any judicial structure would remain hollow. In line with this mandate, Atty. Ali explained that the NCMF had initiated grassroots campaigns in locations such as Basilan, Palawan, and Baguio to encourage public participation in the formal legal system. He recalled the words of Justice Marvic Leonen, who had said, *"Forget about the training. Teach people to avail of the services of the court, teach them to use the system."*

This, Atty. Ali clarified, marked a paradigm shift in the strategic direction of the NCMF—from merely focusing on legal education and training to directly engaging with the public. The gap, therefore, is not solely one of legal infrastructure but also of legal consciousness. Here, he proposed that the Shari'ah Academy could play a critical role in shaping public perception and increasing awareness. Whether within the Bangsamoro Autonomous Region in Muslim Mindanao or in areas outside it, both the NCMF and BARMM must collaborate to foster a widespread belief in the credibility and prestige of the Shari'ah court system. This involves promoting the perception of speedy and fair trials, which in turn will build trust.

On the legislative front, Atty. Ali emphasized two national initiatives championed by the NCMF. The first was the creation of additional Shari'ah courts, a long-overdue measure that had been dormant since the 18th Congress. Although the proposal was stagnant for years, it eventually passed through the House and was fast-tracked in the Senate, leading to the formal establishment of new courts—an essential development in expanding judicial reach.

The second initiative, a partner bill currently awaiting the President's signature, aims to institutionalize the role of the NCMF as a liaison or intermediary agency for the Shari'ah court system. This measure, once enacted, would facilitate better access to Shari'ah courts, especially through digitalization. By enabling litigants to interact with the courts via the NCMF's network of offices, the barriers of distance and bureaucracy may be significantly reduced.

He stressed that the BARMM could further enhance these developments by aligning its local initiatives with national efforts. In his view, the Shari'ah court system is uniquely positioned at present to harness these reforms, especially under the current stewardship of the Chief Justice. Without the unwavering support of the Supreme Court, however, such aspirations may remain unfulfilled. Therefore, accessibility—both in physical and digital terms—is crucial in fostering trust and enhancing the prestige of the judicial system.

Ultimately, Atty. Ali concluded that the overarching aim is to broaden public familiarity with the Shari'ah legal system and to encourage the public to avail themselves of its services—not only for routine matters such as divorce and the correction of birth certificates, but for a broader spectrum of civil and family-related cases.

At this point, Asst. Prof. Darwin Absari shared his reflections. He analogized the introduction of the Shari'ah system to the marketing of a new consumer

product—such as shampoo—where awareness must be generated through consistent public messaging. Drawing from his fieldwork in 2018, he recounted a sobering realization: many people were entirely unaware of the existence and purpose of the Shari’ah courts. For him, this affirmed that the current efforts to inform and engage the public were indeed on the right path.

He affirmed that the driving force behind strengthening P.D. No. 1083 is to cultivate a collective understanding and appreciation of the Shari’ah system among the Filipino Muslim population. More than mere awareness, the goal is to embed a higher consciousness regarding the significance of Islamic legal principles within societal life.

According to Asst. Prof. Absari, an active campaign is already in place. By the end of September, the team would be traveling to Tawi-Tawi, while trips to Baguio and consultative meetings around Metro Manila are also scheduled. These initiatives are targeted toward areas with established consultative offices and are part of a broader strategy to ensure that Muslim communities across the country are well-informed and engaged.

Atty. Datu Michael Mastura then offered his insights by urging the participants to carefully define the problem at hand. He warned against allowing complexity to obscure clarity. Often, he noted, over-complicating the issue leads to generalizations, which in turn dilute the specific challenges being faced.

He questioned the fundamental orientation of P.D. No. 1083, particularly its alignment with the adversarial structure of civil courts introduced by the American legal tradition. In that system, both sides are represented by lawyers, and disputes are resolved through confrontation. But in Islamic jurisprudence, he argued, the preferred method of conflict resolution is *tahkīm*—arbitration—especially in familial matters. He cited provisions from the Qur’ān which stipulate that when disputes arise within families, each party should nominate a representative to help resolve the conflict.

By transplanting these disputes into a formal, adversarial court system, the original spirit of mediation and community-based reconciliation is lost. Atty. Mastura proposed that what is required is not litigation, but arbitration. The parties should be encouraged to resolve their disputes in forums that emphasize reconciliation rather than adversarial confrontation. He emphasized that formal procedures should only be invoked when mediation fails, and even then, the registrar’s role should be limited and facilitative.

He illustrated this further by contrasting the American approach, where domestic disputes often begin with police intervention, with traditional community mechanisms where local leaders or *panglima* intervene preemptively—often before violence arises. In these settings, adjudication is not about asserting power but about restoring harmony.

In bringing these issues into the context of the formal court system, Atty. Mastura warned that the process becomes convoluted and susceptible to political influence. He reiterated his agreement with Prof. Absari, affirming that the Qur'an calls upon Muslims to pursue moral governance. He lamented the increasing secularization of governance structures and expressed his intention not to offer definitive solutions but rather to provoke critical thinking.

A third participant contributed to the discussion by raising a critical operational concern observed through direct engagement with Shari'ah court judges and personnel. She explained that, based on their organizational experience, many within the Shari'ah judiciary demonstrate a marked aversion to technology and a general lack of computer literacy. This technological gap, she emphasized, significantly hampers modernization efforts and could be addressed through structured training programs specifically tailored for Shari'ah court staff and judges.

She clarified that such an initiative would not infringe upon the jurisdiction of the Philippine Judicial Academy (PHILJA), thereby pre-empting any institutional conflict. Drawing from their 2024 Shari'ah Summit, she recounted how digital survey evaluation forms were distributed exclusively for Shari'ah court judges; however, none of the intended recipients submitted responses due to their unfamiliarity with digital tools, whether through mobile phones or computers. This widespread lack of digital literacy, she argued, runs contrary to the core values of the Supreme Court's Strategic Plan for Judicial Innovations (SPJI), which actively promotes the integration of technology into judicial processes.

She further pointed out that the judiciary has, in fact, begun implementing training modules for lower-ranking court employees—such as utility workers and process servers—to enhance their digital competencies. Considering this, she proposed that special focus be placed on strengthening the technological literacy of Shari'ah aspirants, especially within the Bangsamoro context. She underscored that this is a pervasive issue affecting the entirety of the Shari'ah judicial workforce, including judges.

To illustrate the gravity of the problem, she shared a specific incident during the recent prejudicature program for trial courts. A Shari'ah Circuit Court judge, who was seeking promotion to a higher judicial position, submitted his written decision by hand. The assessment required a typed format, and it became necessary for staff to encode the document on his behalf to avoid disqualification. The assessor in that case was a Justice from the Court of Appeals—known for being both senior and highly meticulous—highlighting the potential risk for candidates lacking even basic digital proficiency. This, she concluded, is emblematic of a structural problem that demands immediate attention if the Shari'ah courts are to keep pace with the broader judiciary.

Asst. Prof. Darwin Absari interjected to further contextualize the digitalization discourse. He referred to a legislative initiative by Senator Robin Padilla, specifically a bill advocating for the digitalization of court processes—including the electronic filing of cases.

Following this, another participant provided complementary insights, particularly focusing on the logistical and service-related barriers that inhibit the effectiveness of digitalization efforts in Shari'ah courts. She expressed concern that the challenges are not limited to internal court personnel but also involve external service providers accredited by the Supreme Court. In her experience, many areas in Mindanao are not adequately served by these providers. For instance, accredited courier systems often fail to deliver documents directly to recipients, instead requiring individuals to collect documents from remote branch offices—effectively operating as a pick-up service rather than a door-to-door delivery system.

She elaborated that while some courts have begun complying with the e-filing system—an encouraging development—the physical copies of documents frequently remain stagnant, either in post offices or private courier facilities like LBC. In many cases, these documents are not only undelivered but are also not returned to sender, creating a lack of accountability and transparency in the tracking process. She noted, with some irony, that private platforms such as TikTok, Shopee, and even J&T Express offer more reliable delivery than court-accredited couriers. She recommended that these service failures be formally reported to the Supreme Court, as they compromise the entire digital filing infrastructure and delay time-sensitive legal processes.

Judge Jainul then contributed a reflective and historically grounded perspective on the institutional reluctance to appoint Shari'ah judges. He recalled an

encounter in 2007, during his tenure as President of the Philippine Trial Judges League, in a meeting of the national judiciary convened to assess the status of court dockets across the country. He was then also serving as a Shari'ah judge. During this meeting, Chief Justice Artemio Panganiban questioned the low volume of cases in the Shari'ah courts. In response, Judge Jainul respectfully explained that the limited number of cases under the jurisdiction of the Shari'ah courts—particularly divorce proceedings—was not indicative of underutilization but of the specificity and nature of its jurisdiction.

He articulated that most of the cases adjudicated under P.D. No. 1083, the Code of Muslim Personal Laws, pertain to divorce or the dissolution of marriage (*faskh*). Hypothetically, he posed, if case volume were to be used as the sole metric for judicial relevance, it would require an unrealistic scenario where every couple in a Shari'ah jurisdiction files for divorce. He argued that using such a metric to evaluate the court's effectiveness is fundamentally flawed, as it encourages an artificial inflation of caseloads.

Transitioning to a related legal challenge, Judge Jainul highlighted a gap in the enforcement of foreign judgments within the Philippine legal system, specifically under the Code of Muslim Personal Laws. He narrated a case involving a woman married under civil law in Zamboanga City. The woman later moved to Abu Dhabi and converted to Islam. In line with Islamic principles—which prohibit a Muslim woman from remaining married to a non-Muslim—she filed for divorce in a Shari'ah court in Abu Dhabi on the grounds that her marriage had become forbidden (*ḥarām*) due to her religious conversion. The Abu Dhabi Shari'ah court granted her a decree of divorce.

This decree, however, faced legal complications in the Philippines. According to the Family Code, for a foreign divorce to be recognized, at least one party must be a foreign national. In this case, both parties were Filipino citizens, creating a legal impasse. Although she sought recognition of the foreign judgment in the Philippine Shari'ah District Court, Judge Jainul predicted that it would be denied, as the civil marriage had not yet been annulled under Philippine civil law. He noted that this posed a significant barrier for Filipino Muslim women who, despite obtaining a legitimate Shari'ah divorce abroad, are unable to secure corresponding legal recognition domestically.

Determined to challenge the legal ambiguity, Judge Jainul stated his intention to appeal such a denial to the Court of Appeals, and eventually, if necessary, to the Supreme Court. His objective is to create jurisprudence that tests the

boundaries of recognition for foreign Shari'ah court judgments involving Filipino Muslims. He observed that similar cases may already exist within the Office of the Solicitor General in the BARMM or even within the NCMF, thereby underlining the need for legal clarity in such matters.

Atty. Ali then addressed the question surrounding the potential expansion of Shari'ah court jurisdiction, particularly in the areas of commercial and criminal law, and the formal integration of ADR mechanisms. He explained that these issues were already part of the eight specific objectives outlined by the Supreme Court in its institutional review and assessment of the Shari'ah justice system. One of the key goals of this review, he noted, was to evaluate the feasibility of expanding the jurisdiction of Shari'ah courts.

In the context of commercial law, Atty. Ali noted that the Bangsamoro Organic Law (BOL) already provides legal space for Shari'ah-compliant contracts, which can be adjudicated under expanded Shari'ah jurisdiction. He emphasized that such commercial issues can also fall under the purview of P.D. No. 1083, because its applicability is national in scope. As such, with the appropriate legal framework in place, Shari'ah courts are capable of rendering judgments on these matters.

Regarding criminal cases, he referred specifically to *ta'zīr* offenses—discretionary punishments for minor crimes—as already recognized within the BOL. Atty. Ali noted that in various FGDs, there was widespread community support for the inclusion of such offenses in the Shari'ah court docket. He argued that this could be one way to address the longstanding issue of low caseloads in Shari'ah courts, since the narrow scope of jurisdiction has often been cited as a structural limitation to their utility.

Atty. Ali then turned to the subject of ADR, highlighting its cultural and religious resonance within Islamic and Moro communities. He explained that, in practice, many disputes are resolved outside of the formal court system through amicable settlement or traditional mediation processes. These outcomes, while effective within communities, often go undocumented in court dockets, thus contributing to the misconception that there is a lack of Shari'ah cases.

He posed a central question raised during the FGDs: can amicable settlements and agreements—such as those resolved through mechanisms like the AAC—be formally integrated into the Shari'ah court process for implementation and

recognition? He suggested that formalizing these out-of-court resolutions by allowing them to be filed and docketed in the Shari'ah courts could help provide a more accurate representation of legal activity in the Muslim justice system. This proposal, he emphasized, was among the key findings of the recent institutional study.

Transitioning to the subject of property relations, Atty. Datu Michael Mastura raised fundamental questions regarding land disputes under P.D. No. 1083. He pointed out that while the Code allows for the resolution of property issues, the approach must begin with understanding the regime of property as a matter of party autonomy. He posed a foundational question: what is the choice of the parties regarding property relations? If no explicit choice is made, the default would be separation—unless otherwise agreed upon.

Atty. Mastura elaborated on a third scenario derived from practice in Malaysia and seen within Moro communities—particularly among the Tausūg and Maguindanaon—where the concept of *harta* or joint property is recognized. In this context, properties acquired during the subsistence of marriage are considered jointly owned, even though Islamic principles generally adhere to the rule of complete separation of property. He emphasized that under Islamic law, what belongs to the woman remains hers, and what belongs to the man remains his. Nevertheless, he noted, joint acquisition during coverture presents a practical reality that must be addressed, especially in divorce and inheritance cases.

Drawing from his own past experience as *amicus curiae*, Atty. Mastura recalled raising this very issue before the Supreme Court, only to be met with judicial hesitation. The Court, at the time, opted not to engage with the matter substantively. Still, he believed the issue remains highly relevant, particularly as land disputes are a primary driver of clan feuds, including those involving internal factions of the MILF. In these conflicts, competing claims over land—often tied to family or clan-based control—can escalate into violence. Atty. Mastura urged that such matters be included in ongoing policy studies and acknowledged MP Atty. Ishak V. Mastura for having previously raised similar concerns.

Prof. Macrina Morados brought clarity to the doctrinal and procedural confusion surrounding property regimes in the context of divorce under P.D. No. 1083. She stated that, in the absence of any stipulation, the default marital property regime under P.D. No. 1083 is complete separation of property.

Her question was: when a couple acquires property during the course of marriage, what happens to that property upon divorce? She queried whether there is an established Islamic concept that governs the division of such jointly acquired property, or whether the Civil Code must be applied suppletorily. Alternatively, she asked, could the framework of Islamic partnership (*sharikat*) be applicable in such cases? She noted that this ambiguity frequently arises in bar review lectures and legal discussions.

Judge Jainul responded with a case from his own court, *Abubakar vs. Abubakar*, which had been elevated to the Supreme Court. The case involved the partition of property between a Muslim couple married under Islamic law. In accordance with Article 37 of the Muslim Code, the absence of a prenuptial agreement defaulted the marriage to a regime of complete separation of property. However, during their marriage, the couple acquired two properties—one located in Zamboanga and another in Jolo—using their own respective incomes. Thus, the properties were acquired jointly, albeit without formal agreement.

In his ruling, Judge Jainul applied the principle of co-ownership, despite the Muslim Code's default to complete separation. He allocated the Jolo property to the husband and the Zamboanga property to the wife, considering that both had contributed to the joint amortization. He admitted that he hoped the Supreme Court would challenge his application of co-ownership as inconsistent with P.D. No. 1083. Instead, the Court affirmed his ruling as correct.

Reflecting on this, Judge Jainul underscored a critical implication: even if the interpretation appears inconsistent with the letter of the Muslim Code, once the Supreme Court rules on a matter, its decision becomes part of the law of the land—whether right or wrong. This, he noted, exemplifies the broader challenge of doctrinal evolution within the Shari'ah system, particularly when Islamic jurisprudence intersects with Philippine jurisprudence.

Atty. Hamid Aminoddin Barra highlighted a fundamental issue contributing to persistent conflicts in the courts: the non-implementation of *farā'id* (the Islamic law of inheritance) following the death of a dissident. He observed that upon the death of an individual, properties are often left untouched, resulting in multiple generations claiming rights over the same property. This phenomenon, he explained, inevitably leads to rido, as each heir asserts entitlement to a portion of the estate. Atty. Barra linked this observation

to Atty. Michael Mastura's earlier remarks regarding the complexity and multiplicity of overlapping claims, which exacerbate disputes. He recounted that in Lanao, certain cases have been adjudicated by the Intermediate Affiliate Court, yet losing parties frequently escalate their disputes to the MILF courts. Illustrating the severity of this issue, he cited a recent incident where MILF forces demolished a house along a commonly traveled route, directly connected to ongoing property conflicts. He concluded by stressing the urgency of incorporating into research efforts, such as those of Prof. Macrina Morados, the imperative to educate and convince communities to apply *farā'id* immediately after a dissident's death to preempt property disputes that escalate into violent feuds.

Adding to the discussion, Atty. Mohammad Al-Amin Julkipli contributed further insights concerning gaps within P.D. No. 1083, particularly on matters of adoption and guardianship. He explained that while previous interventions had touched upon these issues, they warranted formal documentation within proposed legal enhancements. Specifically, he addressed the jurisprudential provisions on *kafala*—the Islamic system of guardianship or adoption—and emphasized ongoing challenges within the Bangsamoro Autonomous Region in Muslim Mindanao. He noted that the Ministry for Social Services, akin to the National Commission on Muslim Filipinos' coordination with the National Agency for Alternative Child Care, is actively grappling with custody issues, especially concerning orphans and abandoned children.

Atty. Julkipli stressed that current laws lack clear rules governing guardianship over these vulnerable children, creating a legal vacuum with significant real-world implications. He recounted an illustrative case where an orphaned child, taken under the custody of a *masjid* (mosque) and later becoming a *ḥāfiẓ* (one who has memorized the Qur'an), faced difficulties with immigration authorities due to the absence of formal legal documents recognizing the mosque or accompanying adult as the child's legal guardian. This example underscored the urgent need for legal provisions addressing guardianship to prevent issues related to child trafficking and ensure proper protection under the law.

Further, Atty. Julkipli turned to the topic of Agama arbitration, reiterating the Office of the Bangsamoro Attorney General's interest in enhancing and institutionalizing ADR mechanisms such as arbitration, mediation, and conciliation within the Shari'ah justice framework. He pointed out that P.D. No. 1083 already mandates ADR as a compulsory element of litigation within Shari'ah courts, contrasting this with the regular courts, where court-

annexed mediation and judicial dispute resolution have undergone multiple stages of refinement and integration. Highlighting the advantage of ADR as an adjudication-focused rather than adversarial process, he advocated for strengthening the AAC to achieve more equitable resolutions for litigants.

Responding to a question from Ustadh Luqman regarding whether procedures at the AAC level could be credited as part of the Shari'ah court docket, Atty. Julkipli affirmed this possibility. He suggested that docketing procedures in Shari'ah courts require modification to allow cases subjected to AAC arbitration to be officially counted within the courts' caseloads. This recognition would acknowledge the AAC's role as an organ of the court, noting that it is chaired by the court clerk, thereby ensuring that the arbitration efforts contribute formally to the judicial process.

In agreement, Judge Kaudri Jainul clarified that the Agama Arbitration Council presupposes the existence of a case already filed in court. He shared his recent experience as the sole Muslim participant in a family mediators training program attended by fifty participants. During this training, he introduced the participants to the AAC as part of the Shari'ah court system and emphasized the importance of integrating Shari'ah court personnel, particularly clerks of court from the circuit courts, into future family mediator training sessions. He further recommended including Muslim lawyers and Shari'ah counselors in these trainings to enhance the effectiveness and cultural relevance of family mediation practices.

On the role of the Darul-Ifta in strengthening the implementation of P.D. No. 1083, Sheikh Abdulraof Guialani explained that one of the mandates of the Darul-Ifta is to serve as the social capital of the *ulama* (Islamic scholars). According to Sheikh Guialani, a critical avenue for advancing P.D. No. 1083 lies in mobilizing the *ulama*, whose influence within the community is substantial. However, he identified a major challenge: many *ulama* struggle to pass the Shari'ah bar examinations, which hinders their ability to engage effectively with the legal system. Consequently, this lack of certification creates a sense of exclusion among them, as they feel unable to fully participate in Shari'ah judicial processes.

To address this, Sheikh Guialani proposed that the Shari'ah Academy could provide targeted support to *ulama* by offering training tailored to help them pass the Shari'ah bar. This initiative would encourage greater interest and engagement with P.D. No. 1083 by enabling the *ulama* to familiarize themselves with its contents and promote its principles within their

communities. He underscored the pivotal role of *ulama* on the ground, noting that community members place immense trust in their guidance, making them effective promoters of Shari'ah law. Citing survey data, he emphasized that the *ulama* are among the most trusted figures in local communities, and if empowered, they could significantly influence the acceptance and implementation of Shari'ah provisions.

Sheikh Guialani further identified language barriers as a principal reason behind the difficulties faced by the *ulama* in passing the Shari'ah bar. He noted that translation issues complicate comprehension and performance during examinations. He advocated for training programs at the Shari'ah Academy that would encourage *ulama* to respond directly in Arabic, rather than relying on English translations. This approach, he argued, would facilitate deeper understanding and mastery of the law, increasing the likelihood of success in certification exams. Moreover, the Shari'ah Academy could provide procedural training, especially for *ulama* who are weak in court procedures, thereby enhancing their practical competence.

On specific legal matters, Sheikh Guialani reported progress on the issue of *kafala* (Islamic guardianship). He shared that the Ministry of Social Services and Development (MSSD) of the BARMM had formally consulted the Darul-Ifta on the Islamic understanding of *kafāla*. In response, the Darul-Ifta finalized guidelines on the matter, which have been signed by the Mufti and will soon be issued as a *fatwā* (religious directive). He invited participants to submit formal questions to the Darul-Ifta for authoritative rulings, underscoring the institution's commitment to providing clear religious guidance on emerging issues.

Regarding *waqf* (Islamic endowment) and *zakāt* (obligatory almsgiving), Sheikh Guialani mentioned that the Ministry of Finance, Budget and Management (MFBM) has developed a roadmap aimed at institutionalizing *waqf* and *zakāt* by 2026. This institutionalization promises to enhance the financial mechanisms supporting social welfare and religious obligations in the Bangsamoro region.

Turning to institutional support, Sheikh Guialani highlighted that the MFBM has released guidelines facilitating funding requests for Shari'ah district and circuit courts through the Office of the Chief Minister. He expressed gratitude on behalf of the *ulama* for the legal and logistical support provided by lawyers and the government, emphasizing that such backing makes it easier to promote

Shari'ah law among the populace. He expressed hope that these developments would solidify P.D. No. 1083 as a robust legal framework.

As moderator, Prof. Darwin Absari acknowledged the importance of the points raised by Sheikh Guialani, especially regarding the full support of the *ulama* constituency. He recounted his interviews with several *ulama*, who revealed a common perception that studying P.D. No. 1083 after years of formal Shari'ah education abroad can be demoralizing. This sentiment presents a challenge that must be addressed. Asst. Prof. Absari stressed that gaining the wholehearted endorsement of the *ulama* would greatly enhance the effectiveness and reach of the Shari'ah legal system.

Building upon these themes, Coun. Aisha Flores-Malayang contributed remarks focused on guardianship and custody, particularly concerning *walad al-zina* (children born out of wedlock), an issue currently undefined in P.D. No. 1083. She shared an ongoing case involving divorced spouses contesting custody of their daughter, who is already of legal age (*bālig*), yet the parents remain embroiled in conflict. The mother had filed a Violence Against Women and Children (VAWC) complaint, leading to legal expenses and subsequent retaliatory custody claims by the father. In reviewing the documents, Atty. Ayshia noted the child's status as *walad al-zina*, which lacks explicit regulation in P.D. No. 1083. Consequently, she resorted to the jurisprudence of the *Shāfi'ī* school to formulate her legal arguments.

She also raised concerns about the custody and guardianship of elderly persons suffering from dementia or Alzheimer's disease who lack legal capacity. These issues include the unresolved question of inheritance when descendants are still alive, and the ambiguity surrounding who may grant a Special Power of Attorney (SPA) on their behalf. These matters remain undefined within the current legal framework.

Finally, Coun. Aisha discussed an instance she plans to address at the Philippine Judicial Academy (PHILJA) concerning the reversal of jurisdictional cases, exemplified by the *Maliga vs. Tingao* case. In this case, a matter originating in the Shari'ah court was transferred to the regular courts, leading to complications related to economic support and VAWC allegations. She recounted a case involving a Muslim couple married under Muslim law, where the wife divorced the husband within a week and subsequently filed fabricated VAWC charges. Despite the legal principle that after the expiration of the *'iddah* (waiting period), the wife is no longer entitled to support, the

Regional Trial Court (RTC) continued to pursue the case, resulting in the husband's incarceration and bail payment. Coun. Aisha lamented the ongoing hearings despite the issue being elevated to the Supreme Court, emphasizing the detrimental effects on Muslim litigants, and urging judicial adherence to precedents established by the *Maliga vs. Tingao* ruling.

Another participant responded by reflecting on the evolving role of the *ulama* in relation to P.D. No. 1083. He recalled that during the drafting of P.D. No. 1083, some *ulama* had boycotted the process, which possibly contributed to inconsistencies within the law's provisions. However, he observed a marked shift: more *ulama* now show interest in studying P.D. No. 1083, as evidenced by the increasing number who pass the Shari'ah bar exams annually—approximately five to ten candidates per year. This trend, he argued, signals a growing need for support to address lingering deficiencies, particularly in language proficiency and digital literacy.

Aligning with previous remarks, he highlighted the necessity of equipping *ulama* with technological skills to complement their legal knowledge, thereby empowering them to effectively lead Shari'ah courts. He noted discussions with Atty. Patrick M. Valdez, who confirmed PHILJA's readiness to extend technological assistance. He proposed integrating this support within the Shari'ah Academy framework to enhance the operations of the Shari'ah Division of PHILJA, describing this initiative as both feasible and critical to strengthening Shari'ah justice administration.

In his remarks, Atty. Mohammad Al-Amin Julkipli confirmed that the Attorney General's Office, in collaboration with the NCMF and the Shari'ah courts, has already conducted three rounds of special Shari'ah training dedicated specifically to *ulama* and community members. He proudly noted that last year, the program produced a top-notch examinee, and this year, another *ulama* followed suit. He underscored a significant shift: for many years, *ulama* who attempted to pass the Shari'ah bar examination were unsuccessful; however, with the introduction of the Special Shari'ah Training Seminars (STS), tailored exclusively for the *ulama*, there has been a marked improvement in their performance. These seminars, designed to address the unique needs of the *ulama*, have been met with positive responses, especially from those aspiring to become Shari'ah counselors.

Over the past two years, good results have been achieved, but Atty. Julkipli expressed uncertainty about the continuity of the program, given the existing

limitations imposed by new bar qualification rules. Nevertheless, he asserted that the program serves as a proof of concept that bridging the gap between *ulama* trained abroad and the provisions of P.D. No. 1083 is possible. The program operates by seeking special authorization from the court to implement a dedicated training scheme for *ulama* drawn from *madaris* and *imam* communities. The primary goal is to increase the number of competent Shari'ah practitioners who are credible members of their respective communities. This approach is intended to enhance the accessibility and popularity of Shari'ah courts, as *ulama* embedded within their communities enjoy a high level of trust, thereby facilitating the community's engagement with Shari'ah judicial processes. The initiative's continuation, however, remains contingent upon the Supreme Court's approval.

Adding to the discussion, Atty. Hamid Aminoddin Barra shared insights from his recent interactions with Justices Dimaampao and Kho, who chair the Shari'ah bar examinations body. Drawing from his experience as an examiner in 2008, Atty. Barra highlighted the persistent challenges faced by *ulama* taking the examination. He recalled reviewing examination notebooks written in Arabic, comparing answers, and identifying significant problems in the translation of exam questions from English to Arabic and then back to English. This manual translation process often distorted the original meaning, complicating comprehension for examinees. To address these issues, Atty. Barra organized a team of four *ulama*, including Sheikh Ibrahim, to utilize a software application called "Exemplify," which facilitated the translation of questions into Arabic. The team meticulously checked and corrected translations during the examination period to ensure clarity and fairness.

Moreover, Atty. Barra stressed the need for intensified training for *ulama* in computer literacy and Arabic language proficiency, emphasizing that reliance on machine translation is insufficient compared to human translators. He proposed the development of a standardized Arabic version of P.D. No. 1083, which *ulama* could use as a reliable study reference. He cited specific translation errors, such as the term *Amira* being mistranslated as "princess," illustrating the critical need for accurate linguistic resources.

In response, Coun. Aisha informed the assembly of a new technological initiative developed by the Supreme Court to aid Arabic translation. This technology is intended to support the translation of examination questions while still relying on qualified Arabic translators from the NCMF to ensure accuracy. She also mentioned that all trainees participating in the Shari'ah

Training Seminars receive textbooks, including two volumes in Arabic, reinforcing their linguistic competence.

Coun. Asiha then invited feedback from the participants regarding a significant curriculum change proposed for the 2026 Shari'ah Special Bar Examinations. During consultations with professors involved in the Shari'ah training seminars, there was a strong push toward adopting a pure essay format for the examinations. However, Justice Inting, the chairperson of the bar exam, expressed reservations, fearing that an exclusively essay-based format might result in a lower pass rate. There was uncertainty whether the exam should maintain a mixed format, including identification and definition of terms, or shift entirely to essay questions. Notably, the Shari'ah bar is moving towards greater alignment with the regular bar exams, making this decision particularly consequential. The body reached a consensus in favor of the pure essay format.

A subsequent participant emphasized the importance of continuous, practical training for *ulama* who have passed the Shari'ah bar exams. He advocated for the development of a program that would extend beyond theoretical knowledge to include hands-on experience in filing cases and courtroom procedures. This practical component is essential for enabling *ulama* and Shari'ah counselors to effectively apply Islamic jurisprudence in real legal contexts. Furthermore, he stressed the need for sustained support, particularly for foreign-trained graduates and *ulama* aspiring to practice Shari'ah law. Specialized procedural training is necessary to equip these individuals with the skills to serve competently within Shari'ah courts, ensuring the ongoing enhancement of judicial services in Muslim communities.

Overall, the discussions reflected a shared commitment to strengthening the Shari'ah judicial system by addressing critical gaps in education, language proficiency, practical training, and technological support. The combined efforts of the Attorney General's Office, NCMF, Shari'ah courts, and allied institutions such as PHILJA aim to elevate the capacity and credibility of the *ulama* sector within the framework of P.D. No. 1083, thereby advancing the implementation of Shari'ah law in the BARMM.

In his contribution, Mr. Abdurahman Talusan emphasized the central theme of the discussion: how to build and strengthen the trust of the Muslim community in the Shari'ah courts, as opposed to the traditional secular courts. He expressed his agreement with Sheikh Hassan, representative of Darul-Ifta, noting that, like many *ulama*, he himself graduated from a foreign institution—

in his case, Saudi Arabia. He recalled that prior to 2017 and the early 2000s, there was a widespread perception among the people discouraging them from resorting to the Shari'ah courts in the Philippines because these courts were perceived as government institutions. This sentiment, he acknowledged, was a prevailing reality on the ground. However, Mr. Talusan chose to engage with the Shari'ah courts directly to assess whether their rulings contradicted the Qur'anic and Sunnah principles. Upon his engagement, along with other *ulama*, he found no contradictions, but rather recognized that the resistance stemmed primarily from traditional *ulama* affiliated with the Moro Islamic Liberation Front. These *ulama* had disseminated messages urging the masses to avoid participation in the government-run Shari'ah courts. This represented a fundamental challenge in garnering community trust.

According to Mr. Talusan, the key to overcoming this distrust lies in demonstrating that the Shari'ah courts operate efficiently and justly. Echoing the earlier remarks of Sheikh Hassan, he highlighted the importance of continuously training the *ulama*. He noted with optimism that, by 2022, the traditional *ulama* had begun participating in the Shari'ah bar examinations, signaling an opening of doors previously closed. He stressed the importance of sustaining this momentum by fully utilizing modern technology and ensuring ongoing engagement through Shari'ah training seminars.

Furthermore, Mr. Talusan proposed specific improvements for the Shari'ah examination process. He recommended that examiners be proficient in both Arabic and English and possess credentials as graduates of Shari'ah training programs. This dual competency would reduce the need for translation and, consequently, lower administrative costs while minimizing human resource challenges. Lastly, he advocated for granting foreign-trained Shari'ah graduates immediate professional recognition akin to pastors, allowing them to practice their profession without unnecessary bureaucratic impediments.

Another participant, reiterated and expanded upon points previously made by Atty. Mohammad Al-Amin Julkipli regarding the focused efforts of the NCMF and the Bangsamoro Autonomous Government Office to prioritize *ulama* and *ustadz*—especially those who took the examinations in Arabic. The initial iteration of this targeted training occurred before the COVID-19 pandemic and was met with limited success. However, subsequent efforts in 2023 and again in 2024 yielded significant progress, producing topnotchers, including, notably, the first Arabic-taker to rank ninth in the 2023 Shari'ah bar

exams. This was celebrated as a landmark achievement, signifying the efficacy of focused training initiatives.

The participant underscored the value of the recent collaboration with PHILJA and the potential role of the Shari'ah Academy in institutionalizing these programs for Arabic-speaking candidates. He affirmed that this approach confirmed the "proof of concept" that providing *ulama* with a dedicated platform allows them to fully demonstrate their expertise. He went so far as to suggest that the depth of knowledge among foreign-trained *ulama* might surpass that of those trained locally. Despite current challenges with bar examination requirements, there remains a commitment to sustain collaboration with BAGO.

He further highlighted a pressing issue concerning foreign-trained graduates and their struggle to secure certificates of equivalency, a critical requirement for practicing law under current bar rules. He noted that the process for equivalency is slow and cumbersome, hampered by the limited capacity of the unit responsible for conducting background checks. To address this bottleneck, he proposed forging partnerships with the Commission on Higher Education (CHED) and possibly the Ministry of Basic, Higher and Technical Education (MBHTE) to localize and streamline the equivalency process. Such measures would accelerate certification, thereby empowering Arabic-speaking *ulama* with the credentials necessary to contribute meaningfully to the practice of Shari'ah law in the Philippines.

Asst. Prof. Darwin Absari acknowledged that the Islamic Committee on CHED is already addressing the issue of equivalency and pledged to follow up on its progress. He proceeded to thank all participants for their contributions and formally recognized the diligent work of those involved in the drafting of P.D. No. 1083, expressing gratitude for their foundational efforts. At the same time, he affirmed the collective awareness of the need to strengthen P.D. No. 1083 to better serve the contemporary needs of Muslim communities.

Asst. Prof. Absari explained the next steps: the presentations and discussions from the session would be compiled into a cohesive document. They would adopt P.D. No. 1083 as the "mother law," following a proposal by Attorney Mike Mastura, and incorporate annotations as recommended by Atty. Sadain. The document would include expanded provisions aimed at improving the implementation of Shari'ah law. The resulting proceedings and write-up would serve as an important academic and policy reference.

Looking forward, Asst. Prof. Absari outlined a strategic plan involving continued support for the Bangsamoro Academy and the ongoing Shari'ah campaign led by the NCMF. He proposed organizing dialogues with Darul-Ifta to conduct *shura* and *ijma* sessions to formalize the annotations and possible reforms to PD1083. He suggested that this approach could bypass lengthy legislative procedures, allowing for timely and culturally appropriate adaptations to the law. This “shortcut” would align with the practical and spiritual guidance of the *ulama*.

He concluded by expressing sincere appreciation for the attendance and active participation of representatives from the BARMM, acknowledging their busy schedules. He proposed maintaining communication through a group chat to facilitate ongoing collaboration and promised to provide updates on future developments. The meeting was then adjourned with a commitment to continued partnership and progress in strengthening the Shari'ah judicial system within the Philippines.

Photos



Asst. Prof. Absari moderating discussion point 1 during the Policy Dialogue on Presidential Decree No. 1083.



Atty. Datu Michael Mastura shares his insights and inputs on the revision of Presidential Decree No. 1083.



Atty. Mehol K. Sadain presents his proposals for enhancing, updating, and correcting Presidential Decree No. 1083.



Asst. Prof. Absari solicits additional inputs from the participants of the Policy Dialogue on Presidential Decree No. 1083.



Justice Edilwasif T. Baddiri delivers his message to the participants during the Policy Dialogue on Presidential Decree No. 1083.



Assoc. Prof. Macrina Morados presents the Institutional Review and Assessment of the Shari'ah Justice System research during the Policy Dialogue on Presidential Decree No. 1083.



Atty. Jehan-Jehan Lepail raises her comments and suggestions during the Policy Dialogue on Presidential Decree No. 1083.



Group photo of the organizers and participants during the Policy Dialogue on Presidential Decree No. 1083.

Center for Integrative and Development Studies

Established in 1985 by University of the Philippines (UP) President Edgardo J. Angara, the UP Center for Integrative and Development Studies (UP CIDS) is the policy research unit of the University that connects disciplines and scholars across the several units of the UP System. It is mandated to encourage collaborative and rigorous research addressing issues of national significance by supporting scholars and securing funding, enabling them to produce outputs and recommendations for public policy.

The UP CIDS currently has twelve research programs that are clustered under the areas of education and capacity building, development, and social, political, and cultural studies. It publishes policy briefs, monographs, webinar/conference/forum proceedings, and the Philippine Journal for Public Policy, all of which can be downloaded free from the UP CIDS website.

The Program

The Islamic Studies Program (ISP) seeks to advance the critical and strategic roles of Islam in nation-building and determines to lead the Filipino communities to know Islam deeper and consequently deal with the existing stereotypes against Muslims. The three-fold research component is comprised of: (1) Hikma, or the historical and Islamic knowledge for the modern age; (2) Shari'a courts practices, implementations, and issues for revisions; and (3) the Moro story, which entails identifying key issues affecting the dynamics of Moro families locally and globally.

Editorial Board

Rosalie Arcala Hall

Editor-in-Chief

Honeylet L. Alerta

Deputy Editor-in-Chief

Program Editors

Education and Capacity Building Cluster

Dina S. Ocampo

Lorina Y. Calingasan

Education Research Program

Rosalie Arcala Hall

Program on Higher Education Research and Policy Reform

Romylyn Metila

Marlene Ferido

Assessment, Curriculum, and Technology Research Program

Ebinezer R. Florano

Program on Data Science for Public Policy

Social, Political, and Cultural Studies Cluster

Rogelio Alicor L. Panao

Program on Social and Political Change

Darwin J. Absari

Islamic Studies Program

Rosalie Arcala Hall

Strategic Studies Program

Development Cluster

Annette O. Balaoing-Pelkmans

Program on Escaping the Middle-Income Trap: Chains for Change

Antoinette R. Raquiza

Julius Lustro

Political Economy Program

Eduardo C. Tadem

Maria Dulce Natividad

Program on Alternative Development

Iris Thiele Isip-Tan

Program on Health Systems Development

New Programs

Maria Angeles O. Catelo

Food Security Program

Weena S. Gera

Urban Studies Program

Benjamin M. Vallejo, Jr.

Conservation and Biodiversity

Rosalie Arcala Hall

Local and Regional Studies Network

Editorial Staff

Jhimeel P. Valencia

Bryan Patrick Garcia

Copyeditors

Alexa Samantha R. Hernandez

Editorial Assistant

Mikaela Anna Cheska D. Orlino

Layout Artist



**UNIVERSITY OF THE PHILIPPINES
CENTER FOR INTEGRATIVE AND DEVELOPMENT STUDIES**

Lower Ground Floor, Ang Bahay ng Alumni, Magsaysay Avenue
University of the Philippines Diliman, Quezon City 1101

Telephone (02) 8981-8500 loc. 4266 to 4268
(02) 8426-0955

Email cids@up.edu.ph
cidspublications@up.edu.ph

Website cids.up.edu.ph