



**Women's Rights, International Law and Islamic Law:
The Case of the Philippine ARMM Gender and
Development Code**

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List of Acronyms

AMDFI	Al-Mujadillah Foundation
ARMM	Autonomous Region in Muslim Mindanao
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (<i>also called as the Women's Convention</i>)
CMPL	Code of Muslim Personal Laws
GAD	Gender and Development
GMC	Gender Mainstreaming Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGU	Local Government Unit
MCW	Magna Carta of Women
NGO	Non-government Organization
PCW	Philippine Commission on Women
NCRFW	National Commission on the Role of Filipino Women
VAW	Violence against Women
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women (<i>now called UN Women</i>)

Abstract

This research revolves around the Philippine Autonomous Region in Muslim Mindanao Gender and Development Code (ARMM GAD Code), a local policy that affirms both principles of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Code of Muslim Personal Laws (CMPL) of the Philippines. This study critically analyses the formulation of said local policy from both international human rights law and Islamic law perspectives. Finally, it also attempts to provide space for in-depth discussion on the State compliance with international human rights law in the light of Islamic law, and its implications on women's rights advocacy and policy-making.

Relevance to Development Studies

This research is a contribution to women and gender studies particularly in the areas of women's rights in relation to international human rights law and Islamic law.

Keywords

Women's rights, international law, CEDAW, Islamic law

Chapter 1

Introduction

In the field of women's studies, much has already been written about women's rights in Islam and international law; particularly, on Islam and its anti-feminist values; and the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and its hegemonic and too western take on women's rights. Women in Muslim societies have also been the subject of images and generalizations, romantic orientalist tales and feminist expose. Muslim women have been popularly characterized by images of deserts and harems, chadors, hijabs and burqas, segregation, subordination and oppression (Haddad and Esposito 1998). That is how media and academic studies portrayed Muslim women until third world feminists started sharing stories of self-empowerment to veer away from the rhetoric of saving Muslim women. Available literature is as equally one sided, if not for legal scholars who sees the potential of international law in promoting human rights globally, some feminists have been hostile towards these human rights instruments including the CEDAW because of their too universal nature and failure to recognize diversity of women in the world. Though in the recent years there was a spurt of academic research and literature in the area of women in Muslim societies, the enormity of the discourse and in many subject areas is very compelling and complex, thus demanding further research on the area.

The research studies and attempts to provide space for discussion on whether or not international human rights and Islamic law are compatible and how to comply with international human rights law while still adhering to and recognizing Islamic law by looking into the CEDAW implementation in the Philippines, with focus on the formulation of a local policy, the Autonomous Region in Muslim Mindanao (ARMM) Gender and Development (GAD) Code, or simply the ARMM GAD Code. This policy is considered a milestone since it's the first policy in the Philippines to reaffirm both the CEDAW and the Islamic law, in the form of the Code of Muslim Personal Laws (CMPL) in the Philippines.

There are some feminist literature that deals with the same subject but mostly on Muslim countries; as the Philippines is a highly Christian country and Muslims are considered a minority group, this paper hopes to shed light on some of the challenges encountered in pursuing policies for Muslim Filipino women. Current discourses and traditional arguments on the subject of women's rights will also be reviewed and responded to from both international human rights and Islamic perspectives.

This research formulates a synthesis between extreme discourses and debates, and argues that though there are differences and tensions of scope and application most especially when analyzed using a human rights or gender lens, it does not create a general state of dissonance between international

human rights law and Islamic law, and that areas of complimentary are possible. To avoid generalizations, the ARMM GAD Code will be analysed within the lens of both international (in the context of CEDAW) and Islamic law (in the context of CMPL). I will argue that it is possible to address issues raised and uphold rights being claimed by Muslim women within the themes of Islamic law using international human rights law as an entry point for discussion and action. This research also asserts that Islamic principles can serve as an important vehicle for the guarantee and promotion women's rights.

1.1 Research Objectives

Lila Abu-Lughod (2002) reminded us that we should be constantly reminded to take a close look at how policies are being organized around. With this in mind, the initial objective of this research was simply to look into how a certain policy that promotes rights of Muslim women was crafted. To analyze the ARMM GAD Code - both the document itself and the process by which it was formulated and the actors involved. This means looking into steps undertaken by the government, other different actors involved and the negotiations that occurred among these actors that resulted to the final version of the GAD Code. This is to understand and paint a picture of how a government attempts to, whether successfully or not, provide convergence between international and Islam law.

However, as I go on with my review of related academic literature, there were major observations that encouraged further and gave more reasons for this study to be pursued. One of which is that of the available feminist literature on CEDAW, a bulk focuses on legal-political aspects (Zwingel 2005) and how the Women's Convention has affected or can affect judicial systems and process in State Parties. Further, the scholars who have engaged in the debate of universal vs. cultural to explain tensions between CEDAW or international human rights in general and Islam law have focused too much on polarities that opportunities for common areas and values between those two kinds of laws are neglected or overlooked. According Downes (2004), this highly polarised academic discourse has provided an inadequate theoretical framework for the development of alternative strategies by advocates of women's rights. Finally, studies that combine the three areas of women's rights, CEDAW implementation and Islam law, very little if not none focus on non-predominantly Muslim countries like the Philippines. To fill-in and address these gaps, contribute to the theoretical discussions and provide further empirical knowledge in the area of CEDAW implementation and women's rights in Islam also became objectives of this research.

1.2 Research Questions

The main research question of this study is: *How did the ARMM GAD Code address tensions between Women's Convention and Islamic law to promote the rights of the Muslim women of ARMM?*

The following sub-questions are also relevant:

- a. What are the current debates and discourses surrounding the promotion of women's right in relation to international law and Islamic law? (Chapter 2)
- b. What was the socio-political context surrounding the formulation of the Philippine ARMM GAD Code? (Chapter 3)
- c. What assumptions and discourses about women's rights are reflected in the Magna Carta of Women, the Code of Muslim Personal Laws and the ARMM GAD Code? (Chapters 3 and 4)
- d. What are the tensions between the Women's Convention and the Code of Muslim Personal Laws, and how were they addressed by Philippine ARMM GAD Code? (Chapter 4)

1.3 Methodology and Sources of Data

As relations between the different normative contexts can be manifold, methods of analysis, as Cortell and Davis (2000) pointed out, should be "flexible and process oriented". Inductive research logic seems to be an appropriate approach in order to better contextualize better the interactions between the actors involved and the processes undertaken and to draw conclusions for a general understanding and an overview of the links between international law, dominant Islamic discourses, and their implications to policy-making. It is the methodological aim to first lay down and then challenge popular assumptions about women's rights in international law and Islam, as well as apply in the hopes to reconstruct discourses in analysing drafting and formulation of the policy under scrutiny, ARMM GAD Code. In order to do this, there will be an analysis of relationships between actors and other factors which both directly and indirectly involved and affected in the said process which will be explored in Chapter 4.

The empirical analysis traces the development of ARMM GAD Code in two different contexts: first, the international context that led to the drafting of the Code which requires a look into international structures and pressures, particularly from the United Nations (UN); second, the national context of the State and other domestic actors responding to the Women's Convention and at the same time upholding Islamic laws. In both contexts, the constellation and interactions of the actors involved including their interests and strategies are mapped out to illustrate the forces and power dynamics that lead to the final version of the ARMM GAD Code.

This research relies heavily on in-depth document analysis. Secondary data, though sometimes may be limited, proved to be suffice to answer the

chosen research questions. As field work and gathering of primary data was not feasible, the research analysis follows several situated perspectives on the meaning of CEDAW and of Islamic law as expressed in documents, and my own review of available literature. It is this study's aim to integrate perspectives, opposing or not, into a comprehensive picture of dynamics around the policy being examined.

The main sources of data this research draws on are different types of documents. While there is no element of intersubjectivity when generating information in document analysis, compared to interviews where relationship between informant and research may affect the generated data, the choice of documents as well as their interpretation depends to a certain extent on the perspective of the researched and the research question. The meaning of a text is predominantly determined by the context of its creation, yet it is important to acknowledge that it may also be shaped by the way of its reception (Zwingel 2005). The data contained in the acquired documents is then reduced by selection, categorization and summarizing and finally, interpreted (Zwingel 2005).

The technique of analyzing documents starts with determining which ones are relevant for the research. But sometimes accessibility to these documents may pose as a challenge. This has been one of the problems encountered; initially, the analysis of the drafts of the ARMM GAD Code in comparison with the final version was supposed to be one of the core contributions of this research. I felt it was important to see what the first drafts looked like, and how they have evolved after series of consultations with different stakeholders, including Muslim religious leaders and grassroots Muslim women organizations. But due to the unavailability of the draft versions, textual analysis has been limited to the final version of the Code, comparing it to the Code of Muslim Personal Laws, and CEDAW's national translation, the Magna Carta of Women.

For this study, different kinds of documents were examined, but mostly technical reports and policies already in place. Most of them shed light on the context from which the GAD Code spurred upon, providing snippets of answers to the underlying question of why the Muslim GAD Code had been pursued in the first place. These documents were written within different contexts and have varying functions¹:

- **Legal documents** – this include the CEDAW itself, but more importantly the 2006 Concluding Comments of the UN CEDAW Committee, the Magna Carta of Women or the national translation of the Women's Convention, the Code of Muslim Personal Laws of the Philippines, and of course the Philippine ARMM GAD Code (Appendix 1);

¹ Inspired by Zwingel's categorization of documents; other categories she used but were not related to my research were preparing documents (such as agendas and working documents for CEDAW sessions), and advisory documents (expert reports on issues of interest for the UN) (Zwingel 2005).

- **Reporting documents** – the agendas and working documents for the CEDAW session, for example, the Summary record of the 747th meeting of the UN CEDAW Committee. It was in this meeting that the Philippine Country Report was discussed and CEDAW Committee Members examined the report; and
- **Accounting documents** – this includes the country or periodic report of the Philippines on the implementation of the UN CEDAW, these are submitted to the UN CEDAW Committee.
- **Criticizing documents** - According to Zwingel (2005), this kind of document functions as a critique of some actors and use publicity to pressure a more powerful actor to change its behaviour, example are shadow reports of NGOs.

Other documents which will be reviewed but do not exactly belong to any of the categories, are the Technical Report of Grant or Subsidy and Workshop Results during the Conference on Gender Issues in the Context of Islam. Most of the documents mentioned above are easily available online, those which do not appear as appendices to this research; a complete list of all the documents reviewed appear as an appendix as well.

Finally, although they do not fall to any of the categories mentioned, analysis of this data have been greatly inspired by the academic literature of some writers that have already provided initial analysis using feminist perspectives of women's rights in both international law and Islam; albeit separately, they provided strong theoretical assistance and foundation for this research. I have drawn inspiration from the contributions of Hillary Charlesworth and Christine Chinkin on international law and women's rights, and of Mashood Baderin and Shaheen Sardar Ali on women and Islam law.

1.4 Structure of Paper

This research is composed of five Chapters. Following this Chapter on Introduction is the conceptual and analytical framework of this research which discusses, analyzes and deconstructs concepts of human rights, law and its different sources, with particular attention to international law and Islam law and its relation to women's rights. Also, in Chapter 2 is the opportunity to review current debates surrounding women's rights. I shall proceed to Chapter 3 by providing space to present an overview of the context of the policy being assessed, the ARMM GAD Code by providing a look into the Code of Muslim Personal Laws, and providing a glimpse of CEDAW implementation in and compliance by the Philippines. Chapter 4 presents an analysis of the ARMM GAD Code- the various actors involved in the policy-making, and the actual policy itself. Chapter 5, the Conclusion, provides and reviews the different findings of the research as well as my final thoughts, reflections on the problem statement and research process undertaken.

1.5 Scope and Limitation

This is an exercise on critically analysing policy-making process, including to an extent, the actors involved, and especially the actual policy which covers both international law and Islamic law, it is only necessary that for the first Chapters to engage into in-depth discussion on said topics. However, this research paper does not claim to offer any authoritative commentary on international law, and especially on Islamic law. In fact, as I go on with my research and study of the international law, and especially of Islamic law, more and more questions surfaced. This research did not even cover comprehensively the different Islamic schools of thought or traced historical events that lead to different, sometimes even opposing views of Muslims on certain practices. At the end of the research, although I have been introduced to varying Islamic discourses on women's rights, the aim is still to answer the question at hand, nothing more, nothing less.

Chapter 2

A Conceptual and Analytical Framework

Before we look into the formulation of the ARMM GAD Code as an effort to promote the rights of Muslim Filipino women, and in providing a space of convergence between two sources of laws, international and religious, it is important to first gain a good understanding of law and human rights-- as this research deals mainly with a human rights local policy that tries to link two traditions of law. The purpose of this particular section is to provide a general overview, the aim of which is not to go into too much historical details, but to simply give a broad vision of these concepts.

2.1 Human Rights and International Law

Human rights law appeared as a part of international law only after the Second World War. It was the first time in 1948 through the Universal Declaration of Human Rights that recognition that not only states but human beings as well may have rights to be protected at the international level; that States should not be completely free to treat their citizens as they wish (Charlesworth and Chinkin 2000). Since then, the rhetoric and language of rights started to become popular, so much so that several human rights treaties were put into place.

Women paved their way into the realm of human rights law, largely because of the strengthening of women's human rights movement from the so-called West, through the introduction of equal treatment as far as the existing rights are concerned. In legal terms, this means introducing non-discrimination clauses into various human rights instruments. However, civil and political rights could not respond adequately to women's needs because the principle domain of women's activities remained the home and not public or political life. Also, such were criticized of not sufficient to reflect women's experience as economic, social and cultural rights are, to some extent was also made almost exclusively by men. Women's movement next move was eliminating traditional division of roles between men and women. In this connection the thesis has been put forward that the entire body of human rights law or international law in general should be reformulated in order to accommodate adequately the experience of women (Krivenko 2009).

All these events and leaps, and the continuous struggle of women's movements for the introduction of their specific needs into human rights law resulted in the adoption of the CEDAW. It may be considered as one of the biggest achievements of the women's movement in trying to mainstream gender in the UN system. The CEDAW is the most wide-ranging of the international human rights treaties devoted to women.

Although the convention can be criticized from several points of view, it should be admitted that it represents a significant step forward in introducing experience specific to women into human rights law. Also, the formulation of the Declaration on the Elimination of Violence against Women, though still non-binding, was another significant achievement in the realm of international human rights law. However, despite all these instruments and treaties dealing with women's human rights, Krivenko (2009) argues that there are very few rules of customary laws or general principles of law dealing with similar issues and that those which do exist have a very limited scope. On the other hand, some have observed that international law, over the years, has not only permeated areas of international and inter-state relations, but even national political and legal systems. To what extent has the CEDAW permeated the Philippine national legal system is one area that the next Chapter will deal with.

Some critics of international law opined that there have been very few transformation and change in other areas of women's rights human rights law and enforcement despite the further articulation of women's rights through these international treaties. States being principal subjects of international law and the entity responsible for the respect of human rights are at the same time perpetrators of human rights violations (thus the need and importance of having Shadow reports prepared by NGOs). The question of compliance with and enforcement of these treaties remained largely unresolved, and until now, the biggest loophole and challenge of the international law system.

Categorisation of Rights

At first sight, the international law of human rights offers considerable protection to women. The concerted activity of women's groups at the international level from early in the twentieth century is reflected in the range of instruments dealing with women. (Connors 1996) The manner treaties and policies have promoted rights of women and gender equality has evolved and changed over time. Henever (1986) developed an approach of categorising rights and provisions that deal with women, one which will help me later on in assessing the ARMM GAD Code better. These categories are: protective, corrective and non-discriminatory. This categorisation of rights was used by other feminists and academics to classify not only treaties but laws and policies as well. 'Protective' treaties assume that women should be treated differently to men in particular circumstances because they are physically different to and more vulnerable than men (Charlesworth and Chinkin 2000). Ali (2006) further adds that laws with this characteristic reflect a societal conceptualisation of women as a group which either should not or cannot engage in specified activities. While specific provisions for women acknowledge the differences in women and men's lives, 'protective' laws also tend to stereotype women as weak, helpless and subordinate; the need to extend protection, sometimes even failing to ask women what they want and if they want to be protected and in what way. Night work prohibition-natured

policies which limits the amount of night work women can undertake is one example of this kind of law. Those with ‘corrective’ features, on the other hand, attempt to improve women’s treatment without making overt comparisons to the situation of men (Charlesworth and Chinkin 2000). Those laws dealing with trafficking in women or the requirement for women to marry only with their full and free consent are ‘corrective’ ones. Finally, the non-discriminatory (or Ali calls it also the sex-neutral) category includes provisions, which reflect a conceptualisation of women as a separate group, and rather reflect one of both men and women as entitled to equal treatment (Ali 2006). This concept upholds the discourse that biological differences between men and women should not be the basis for the distribution of social and political benefits and burdens within a society. Policies in this category advocate the treatment of women in the same manner as men (Ali 2006). There are some treaties and laws that contain elements of all three categories. Over the years, women’s human rights in international law has evolved from the protective and corrective phase to the non-discriminatory level—from the modest beginnings in the UN Charter, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) to the Women’s Convention. However, despite the shifts of rights-framing, there are still those which question the rights discourse and whether it is enough to address inequalities in societies. Hillary Charlesworth raised a very fundamental question in relation to human rights of women when she said, “do legal rights really offer anything to women? Women’s advantages are often based on structural injustice and winning a case in court will not change this” (Cook 1994).

2.2 Islam and Women’s Rights

Islamic law does not form a single coherent body of law (Ali 2000: 247) and is not strictly speaking monolithic (Baderin 2000: 32). Its jurisprudence accommodates a pluralistic interpretation of its sources, which produce differences in juristic opinions that can be quite significant in a comparative legal analysis, and multiplicity of formulations on, among other subjects, women’s human rights in Islam (An-Naim 1990). Afshari has thus argued that “when reference is made is “Islamic law”, a host of diverse positions... comes into the picture” (Afshari 1994).

A number of scholars, Muslim and non-Muslim, mostly feminists, have posed some challenges to the “restrictive interpretations” of Islamic texts. Shaheen Sardar Ali (2000), Charlesworth and Chinkin (2000) argued, that norms in the Islamic tradition that are discriminatory to women are a result of the fact that historically, it was solely in the hands of “men” who acted as commentators and interpreters of the religious text as well as legislators, jurists and judges and people in power.

Further to this, some (i.e. Ali and Baderin) argue that there is a need to distinguish and clarify between the “Sharia” and “Fiqh” as this distinction underlies the emergence of the various schools of Islamic law, and within them, a multiplicity of positions and opinions (Mir-Hosseini 2009). Sharia, which literally means ‘the path or the road leading to the water’, in Muslim belief is the totality of God’s will as revealed to the Prophet Muhammad – it comprises of religious values, expressed functionality and in concrete terms, to direct (Muslim) people’s lives. Fiqh, an Islamic jurisprudence, which literally means ‘understanding’, denotes the process of humans’ attempt to discern and extract legal rules from the sacred sources of Islam, that is, the Quran and the Sunnah (the practice of the Prophet, as contained in Hadith, Traditions). In other words, while the Sharia in Muslim belief is sacred, eternal and universal, Fiqh, on the other hand, which consists of vast literature produced by Muslim jurists, is like any other system of jurisprudence- human, mundane temporal and local. (Mir-Hosseini 2009)

It is essential to stress this difference and the epistemological and political implications, Mir-Hosseini argues, because Fiqh is often mistakenly equated with Sharia, not only in popular Muslim discourses but also by specialists and politicians with ideological intent. Further, the “Sharia mandate”, hence divine and infallible, that some Islamists assert is in fact the result of Fiqh, juristic speculation and extrapolation (ergo human and fallible). Fiqh texts, which can be patriarchal in both spirit and form, are frequently invoked as a means to silence and frustrate Muslim’s search for this “worldly justice”- one which legal justice and equality in law are intrinsic. (Mir-Hosseini 2009) Ali (2000) further contends that because of the restrictive and literal interpretations of the religious text in Islam, “women became the greatest victims of the abandonment of the Sharia as an emancipator and creative force since in the area of family law, which affected them acutely, need for reform or accommodation was neither felt nor forced.”

Despite these contentions on the interpretation of the Quran and Islamic principles, equity and justice for all remains to be a basic tone of Islam (Esposito 1982; Ali 2000). The ethical voice is said to be egalitarian and non-discriminatory. At the same time, however, it also concedes to resourceful, adult Muslim men, as the privileged member of society, responsibility to care for (and exercise authority over), women and children. The Quran therefore also contains verses validating the creation and reinforcement of hierarchies based on gender and resources. But these verses are very few, not exceeding 6 out of 6666 that make up the text of the Quran. Yet, as Ali (2000) strongly asserts, it is difficult to understand why and how these 6 verses outweigh the remaining 6660, and the position of women in Islam appears to be determined solely on rules derived from a literal and restrictive reading of these few verses.

It has been noted though, that latter day legal, political and economic developments in the Muslim world too has their own contributions in the perpetuation of an Islamic legal tradition seeking that upholds gender equality

as a theme of the Quran. These scholars have attempted to present alternative interpretations to the Quranic verses that declare the inherent superiority of Muslim men, by arguing for a radically different construction to be placed on them. The present chapter explores this pluralistic Islamic legal tradition based on varying interpretations of the religious text in an attempt to develop a theoretical framework for analysing women's human rights in Islam. (Ali 2000)

The complexity of Islamic law does not however make it indeterminable. The differences of the jurists and schools of Islamic jurisprudence represent 'difference manifestations of the same divine will' and are considered as 'a diversity within unity' (Kamali 2003). This depicts recognition of the inescapable pluralism that exists within human society. According to Breiner (1992), Islam 'refuses the temptation to find unity only in uniformity, even in matters of law'. The appreciation of differences, Breiner continued, is an 'important principle of Islamic law, one quite different from the assumptions of Roman law inherited throughout most of Europe'. (Breiner 1992) There is in fact an Islamic jurisprudential maxim that says: 'The blessing of the Muslim community lies of the jurists' differences of opinion'. This is used by human rights activists and Muslim feminists as an entry point to push for gender equality agenda within the context of Islam.

2.3 When CEDAW meets Islam: Implications to Women's Rights

Since women's rights first entered the agenda of the UN through the adoption of CEDAW and the mainstreaming of gender in the other UN human rights instruments, policies and programs, there has been a running tension between the expression and codification of those rights and the right to freedom of religion. This supposed tension has resulted in an "uneasy" relationship between the United Nations instruments on religious rights and instruments on women's rights. (Brandt and Kaplan 1996)

This has been reflected in the numerous reservations of Muslim States to the human rights conventions, particularly the CEDAW. This reservation practice is an expression of conflicting and contradictory claims made by State Parties and CEDAW (Krivenko 2009: 221) Reservations to the CEDAW have been entered by Muslim states, citing Sharia as the motivating force behind (Tehrani 2007). In many Muslim nations, the concept of human rights is an influence of Western liberalism and is considered as very permissive and capable of corrupting moral values of society as prescribed by the Sharia (Baderin 2003: 45). Egypt, Kuwait, Libya, Malaysia, Bangladesh, Iraq and Morocco, are some of the Muslim states that have entered reservations to the Convention on the basis of conflict with Sharia. For the specific reservations, Articles 2, 5, 7, 9, 11, 13, 15, 16 and 29(1) are the articles with most reservations from Muslim countries (Tehrani 2007). But insofar as any of the registered reservations are based on the Sharia, it must be emphasized that expressions of religious faith are protected by international human rights law (Venkatraman 1994).

An important point in the analysis of reservations by countries whose majority of population are Muslims is the differing justifications for their reservations. For example, of the countries that have entered reservation, eight countries (Bangladesh, Egypt, Iraq, Kuwait, Libya, Malaysia, Malaysia, Maldives and Morocco) made their reservations to CEDAW on the basis of conflict with Sharia. Others, namely Algeria, Indonesia, Jordan, Pakistan, Turkey, Tunisia and Yemen, did not expressly mention that their reservations are in consideration of Islamic law. This lack of consistency in invoking Sharia is due to the absence of a unified interpretation of religious law, which in turn increases the discretion of individual State Parties.² This absence of a monolithic interpretation of Sharia is also reflected with the diverse of Muslim Personal Laws. Most reserved articles of the Women's Convention are those pertaining or related to family laws, which has "always been jealously guarded by Muslim States as being regulated by Islamic law" (Ali 2000: 252).

The Philippines posed no reservations to CEDAW. In fact, from the beginning, the Philippines was very active in pushing for a women's convention in the UN; a Filipino, Leticia Ramos-Shahani, prepared the first draft of CEDAW adopted by the United Nations as a basic working paper, in co-sponsorship with Russian delegate Tatiana Nikolaeva (PCW 2013). Two other Filipino women's rights advocates became a member of the CEDAW Committee, Rosario G. Manalo and Aurora Javate-De. All three eventually became Commissioners and Gender Advisers of the national machinery on women, and even after their terms have ended, they were still involved in different ways and levels - from technical inputs to gender equality policies, lobbying, up to project consultancies.

The universal vs. cultural debate has also been hand in hand with any discussion on human rights, so much more when Islam is linked to it. In CEDAW, which upholds the universalist claim to human rights, articles with relation to culture received the most reservations from countries, majority are from Muslim states. Universalists argue that international human rights have an equal validity everywhere in the world. Their position is characterised by a "vestigial distaste for the intrusion on the terrain of human rights by recourse to religion, tradition and emotion." (Falk 1992) The universalist approach can be justified in various ways. For some, it derives from natural law, an assumption that there are common rights "held by individuals simply by virtue of their status as human beings" (Renteln 1985). For others, the act of ratification of human rights instruments demonstrates the recognition by all State Parties of the validity of the human rights concept contained within (Perry 1997). Relativists counter that the human rights doctrine that is lauded as "universal" is actually firmly rooted in Western political liberalism and individualism and has little resonance in societies where duties to family and society predominate (Tibi 1994). Furthermore, relativists counter, taking the ratification of human rights instruments at face value ignores the potential

² Source: <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

political or diplomatic motivations underlying such actions. In short, universalism “finds little support- empirical, historical, philosophical, or otherwise – in the diverse human rights’ practices that characterise the contemporary global community. (Sloane 2001)

The theoretical fixation with the dominant Standard (western human rights doctrine) and the subordinated Other (non-western cultures) can lead Western writers to underestimate intra-cultural differences within Islam and thus simplify it into a monolithic entity. (Otto 1997; Higgins 1996) A simple comparison of diverse Muslim Personal Codes of Muslim countries illustrates the potential inadequacies of this approach. This criticism is predominantly one levelled by universalists at cultural relativists, who accuse the latter of ignoring the local voices in women’s rights debates who support the notion of universal rights (Mayer 1994). However, universalists are equally guilty in this respect by overstating the coherence in existing Western human rights standards and ignoring palpable cultural divergence on ‘Western’ human rights issues.

How does this debate relate to the implementation of CEDAW? Well, for one, the often too polarizing theoretical debate between universalism and relativism presents a number of problems for women’s rights advocates who are attempting to draw on theoretical insights for the development of advocacy strategies. Also, the academic literature provides two contending and irreconcilable presentations of the Muslim world. One presents a society where the Sharia is used as a weapon to oppress women and rejects notions of rights and justice. (Mayer 1994) The alternative portrayal is of a society in which women are reconcilable to Islamic justice and the influence of human rights is marginal. As a result of this universalism-cultural relativism dichotomy, “the important issues of global diversity are clouded and silenced.” (Otto 1997)

The strongest arguments for the universality of human rights are still hinged on moral arguments and the need for substantive justice in human relationships. This involves the question of values and beliefs which do change over time and space. Mashood Baderin (2003) introduced the concept of justificatory principle which can be used to see for reforms and changes in the interpretations of the Quran as reflected in legal systems. Baderin explained that freedoms and liberties of people must be justifiable in accordance with the law and not be arbitrary, establishes “that restrictions upon the rights of individuals must be clearly determinable and justifiable under the law in order not to violate their freedom, liberties and fundamental human rights.” This justificatory principle finds support from the fact that even in the Quran, a justifying clause usually accompanies nearly every prohibition concerning human relations. According to him, “the parameter of justification within Islamic law is thus often found within the Quran itself.” (Baderin 2003: 45).

Chapter 3

Overview of Policy Context

So far, I have established that the ARMM GAD Code is a local ordinance that aims to promote the rights of Muslim women in ARMM. It is a policy because it affirms both rights stipulated under international human rights law and the Islamic law. However, in order to understand better why was there a need, or a call, for the development of such policy, this Chapter will provide an overview of the context in which the ARMM GAD Code was formulated. Specifically, I will provide a glimpse of the Philippines' compliance with international human rights law, particularly with CEDAW, and the Islamic law. It proceeds from the theory that policies are not isolated from reality, and therefore scrutinizing policy-making processes and/or policies cannot be done in vacuum without much regard of the context.

3.1 CEDAW: A Herstory

As a starting point, allow me to recall some historical facts and some important details in relation to the UN CEDAW. The first concrete debate about the possibility of adoption of a convention dealing with the situation of women took place in 1972 in the Commission on the Status of Women. The first draft of the Convention was presented in 1976 to the General Assembly, and it was finally adopted three years later in 1979. As a process and circumstances of the adoption of the CEDAW, it is characterized by two main tendencies. Firstly, when the idea about a convention on women appeared, there were many voices arguing that such a convention would be unnecessary and superfluous. When it nevertheless came to the negotiation of the text of such a convention this tendency has been transformed into an ideological and religious confrontation and therefore a need to use the "constructive ambiguity" in formulating the terms of the future convention. Such an attitude resulted in a relatively long time being taken in elaboration of the CEDAW (Donner 1994) and what a lawyer would call weak terms of the Convention. In other words, various provisions of the CEDAW are formulated in very general and ambiguous terms. As a consequence, many provisions of the Convention have a character of policy statements or expression of intentions rather than concrete legal obligations. The second tendency became apparent after 1975, when the International Women's Year and a Decade for Women were proclaimed by the United Nations. Because of this, starting 1975, there was a rush toward the adoption of the Convention. As a consequence, some controversial questions have been left aside, the terms of the Convention could not be discussed in much detail; and again an ambiguity of terms reflects this attitude. All these events and consideration influenced the formulation of the Preamble of the CEDAW. (Krivenko 2009: 23)

The CEDAW is a comprehensive statement of the right to non-discrimination on the basis of gender. Not only does it codify many of the provisions of existing treaties dealing with discrimination on the basis of sex, but it also extends the principle of sexual non-discrimination into new areas. State Parties to the Convention commit themselves to eliminate discrimination against women and to ensure women the opportunity to enjoy their human rights and fully develop their potential. (Byrnes 1989)

Following the entry and enforcement of the Women's Convention, an expert body, called the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) was established to monitor the implementation. The Committee is established "for the purpose of considering the progress made in the implementation of the Convention." The Convention assumes that the major part of that task will be the examination of reports submitted by States Parties. They may also make suggestions and general recommendations based on their examination of reports and information received from State Parties. (Byrnes 1989)

Despite some evidence of broad support for its objectives, the Convention and the Committee have attracted considerably less attention than the other human rights treaties and their respective committees (Byrnes 1989.) The most sustained interest in the Convention and the Committee has been among those who are especially in the human rights of women or the role of women in development, the general human rights literature still seems largely indifferent to the Convention and CEDAW's activities. The women's rights community and, to a lesser extent, the human rights community, have made efforts to integrate women's rights issues into the human rights agenda, but progress has been slow.

3.2 The Philippines and CEDAW: A Compliance Check

The Philippines has signed the CEDAW on 17 July 1980 even before it took effect, and ratified it on 19 July 1981, the first ASEAN country to do so. It also became a States Party to the Optional Protocol in 2003. According to Philippine Commission on Women (PCW), the national machinery on gender equality and women's empowerment, "Philippines' participation to CEDAW has contributed massively in the advancement and empowerment of the Filipino women" (PCW 2013). Several gender equality and pro-women legislations were put in place using with CEDAW as a guiding document, including anti-sexual harassment law, anti-rape law, anti-trafficking in persons law, anti-violence against women and children law, and most recent is the reproductive health law. In 2006, one of the Concluding Comments of the CEDAW Committee urged the Philippine government "to ensure that the Convention becomes fully applicable in the national legal system, and that a definition of discrimination in line with Article 1 of the Convention is included in national law" (Concluding Comments of the Committee on the Elimination of Discrimination against Women: Philippines 2006).

The Magna Carta of Women

In September 2009, the Philippines passed the national translation of CEDAW, the Magna Carta of Women (MCW). It is a comprehensive women's human rights law enacted to "promote empowerment of women" and commits the government to "intensify efforts" to ensure women's human rights "especially in the marginalized sectors of society" (MCW, Section 2). It recognizes that "equality of men and women entails abolition of unequal structures and practices" (Section 2) and includes a specific section on equality of women and men in matters relating to marriage and family relations. (MCW 2009)

The former UNIFEM, now UN Women, lauded the Philippines for finally passing the Magna Carta of Women (MCW), which according to them is 'a new gold standard for gender equality'. The MCW, considered as the national translation of the CEDAW, will prevail over existing laws and will be the basis of reform of discriminatory elements of these laws.

The MCW follows a rights-based approach, detailing not only the rights of women, the claimholders, but also the roles and responsibilities of duty-bearers. The policy underwent several revisions and drafts and was presented to women's groups and non-government organizations in several public consultations, both of national and regional scope. Part of the institutional mechanisms, the MCW calls for the all local government units (LGUs) to prepare a Gender and Development (GAD) Code "to ensure sustainable gender-responsive local governance." GAD Codes serve as the basis for their annual GAD plans which details how LGUs intend to spend their 5% GAD budget.

In one of the projects of PCW funded by the UN, they identified and targeted select LGUs to assist in the preparation of their GAD Codes, one of the LGUs they have identified as a priority is the Autonomous Region in Muslim Mindanao (ARMM), one of the poorest communities in the country. According to the latest report on the state of poverty in the country by the National Statistical Coordination Board (NSCB), the highest poverty incidence is in the ARMM (NSCB 2013).

3.3 Islam and the Philippines

The Muslims are a minority group in the Philippines. They comprise only five percent of the population and yet regions in the Philippines with majority of Muslims are the poorest in the country. Women in ARMM also hold the lowest literacy rate (NSO 1999a), and widest gender gap in terms of labor force participation rate (LFPR) (ILO 2002b). According to the Combined 5th and 6th CEDAW Country Report the Philippines submitted to the CEDAW Committee, "cultural norms in many Muslim groups limit women's mobility and involvement in trading and other activities that take them away from home. (...) The women's situation was made worse by the continuing peace and order problems in the area" (5th and 6th Philippine CEDAW Report 2006).

Because of autonomy, Muslims in the Philippines are governed by their own laws, but the Philippines' attention was called by the CEDAW Committee because of the Code of Muslim Personal Laws. The next Chapter will provide in detail how, when and why this happened. But it is important to note that in the MCW also identified CMPL as a policy that needs to be repealed and/or amended because of discriminatory features, including the specific articles/provisions of the Family Code and Labor Code, among others.

3.1.1 The Philippine Code of Muslim Personal Laws (CMPL)

The CMPL originated to address fundamental differences between Christian and Muslim Personal Laws (Chiarella 2012). A significant source of tension arose in the form of laws that reflected a Christian approach to personal relationships while simultaneously excluding Muslim views. Relatively early in the period of violent conflict between Muslim rebel groups and the Filipino government, both sides considered the implementation of elements of Islamic law as one way of bridging the volatile divide between the two sides. Many Muslim leaders hoped that the codification of Islamic law and its incorporation into the legal system would resolve many of the problems that beset the region. Presidential Decree 1083 achieved this goal in 1977, formally recognizing Islamic law in the Philippines in certain instances. (Chiarella 2012)

The stated purpose of the CMPL include: 1) the formal recognition of the legal system of the Muslims as part of the law of the land; 2) the codification of Muslim personal laws; 3) provision of an effective administration and enforcement of Muslim personal law (Corpus 2005); and 4) to make Islamic institutions more effective (CMPL 1977). The CMPL covers all laws relating to personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations between and among Muslim Filipinos.

Former President Marcos created a research staff that spent two months conducting research throughout the southern Philippines and several more composing the Proposed Draft. However, when the staff completed its work, the administration rejected its proposal. The administration's discomfort with the proposed draft was not surprising, given their intentions (Chiarella 2012). To further its goal of assimilation, the administration created a new drafting committee (Barra 1993). The committee invited 26 senior Muslim lawyers, all men, to a two-day conference to share their thoughts on the proposed Muslim code (Bentley 1981). In contrast to the diversity of individuals with whom the original committee had conferred, the 18 lawyers who attended this conference were trained in Philippine law rather than Sharia and virtually all had achieved status just during the same administration. Based on the recommendations of this rather homogenous group, and on its members' own beliefs, the new committee prepared a code that differed from the original in several important

ways. Compared to the religious and traditional leaders that were consulted in the first draft who drew upon personal knowledge of and experience with people who would utilize Sharia courts, the academics who contributed to the CMPL were disconnected from the wants, needs, and religious beliefs of the average Filipino Muslim (Chiarella 2012).

While the CMPL had the prospect to increase political power and secure additional rights for Muslim, it has remained an ineffectual and unimpressive afterthought in the larger framework of the legal system of the Philippines. Chiarella (2012) further enumerated more reasons why, according to his research, the CMPL failed to serve its purpose. Aside from very dubious process of formulation, one major problem is that until now Sharia courts are understaffed and underutilized. In a related academic undertaking by Ezer et al. (2011), they also noted that the CMPL closely mirrors the “pre-revision” Civil Code which contained provisions that are unsuitable, unfair, unjust and ‘implanted from foreign sources’ (Ezer et al. 2011). Precisely because of this that it was revised, and eventually resulted to the development of new Family Code which was hailed as a victory for women’s rights in the country. The Family Code removed restrictions on women’s ability to acquire property without his consent. However, as already mentioned early, Muslims are governed by the CMPL therefore Muslim women do not benefit from the Family Code’s advancement. (Ezer et al. 2011)

With the passage of the MCW and a stronger mandate for the government to ensure that laws that are discriminatory against women are reviewed, and if necessary repealed or amended, women’s groups and advocates in the government and NGOs identified a list of legislations with discriminatory provisions. CMPL was identified as one of them.

3.1.2 The Autonomous Region in Muslim Mindanao (ARMM)

The ARMM GAD Code, as previously mentioned, is a local policy. If the MCW is the national translation of the CEDAW in the Philippines, then the ARMM GAD Code is supposed to be the translation of MCW in the ARMM. ARMM, Autonomous Region in Muslim Mindanao, is the region in the Southern part of the Philippines that is composed of predominantly Muslim provinces. It is the only region that has its own government.

In a report prepared by the United Nations in 2011, ARMM is faced with various gender-related problems-- gender-based violence was under-reported, grave child rights violations in situations of armed conflict remain widespread, and human trafficking, especially of women and children to both international and national destinations, is a widely known phenomenon (UN CERF 2011). Also in ARMM that women have significantly lower literacy and educational levels than men. Buenaobra (2011) related this with the compounding to the domestic roles proscribed by cultural norms, which often constrain Muslim women’s opportunities to be full participations and beneficiaries in school, political and economic life (Buenaobra 2011). But gender disparities are not only determined by religious nor by cultural differences, but also result from

the conflict situation in the region. As with most internal conflicts, women, and children are more vulnerable, and majority of the internally displaced people are women and children. A study conducted by the Asia Foundation in 2010 on the dynamics of gender and conflict in Mindanao acknowledge that “decades of conflict have wrought substantial changes in women’s lives, as well as in male-female relationships” (Dwyer and Cagoco-Guiam 2010: 9).

Chapter 4

The ARMM GAD Code

This Chapter is divided into two parts. The first part describes the roles of the different actors involved in the policy-making process, as well as the different stages they were involved in during the course of the policy-making process. By looking into the link between the process and the actors, we can derive a general picture of the positions and discourses being upheld by the different stakeholders on women's rights and how the Women's Convention was used as a tool for empowerment. The second part will closely into the ARMM GAD Code itself, its elements and what discourses on women's rights it upholds. I turn to it as an example of an effort to harmonize international law, specifically the CEDAW, and the Islamic Law, which in the case of the Philippines, is reflected in the Code of Muslim Personal Laws (CMPL).

However, even though I will try to attempt to analyse and to some extent, the language and content of the ARMM GAD Code with the CMPL, it is important to understand that those three policies each carry their own history and context. They are formulated under different process and involved different sets of people, therefore cannot be compared blankly. The CMPL is a national policy and governs all Muslims in the Philippines, while the ARMM GAD Code is a local ordinance whose jurisdiction only covers the Autonomous Region in Muslim Mindanao.

4.1 The Actors

Grindle (1980) defined a public policy as “an ongoing process of decision-making by a variety of actors, the ultimate outcome of which is determined by the content of the program being pursued and by the interaction of the decision makers within a given political administrative context.” For the ARMM GAD Code, there were three levels of actors involved in conceptualizing and crafting of the policy—from the international, national or domestic, and the local. The ARMM GAD Code, as a public local policy, was shaped by the interactions and frictions among different actors, and this section examines at what point they were involved in the policy-making process and to what extent they have influenced the policy.

4.1.1 *The United Nations*

When in doubt, the beginning is always the best point of reference to start with. As for the case of this Philippine Muslim GAD Code, it started with the

Combined 5th and 6th Country Report of the Philippine Government³ on the implementation of the UN CEDAW. The Philippines reported,

“Provisions in the law cited in the fourth report as discriminatory to women or inconsistent with new laws persist. These laws are found in the Family Code, the Civil Code, the **Code of Muslim Personal Laws (CMPL)**, the Revised Penal Code, and Customary Law.” (Combined 5th and 6th Country Report, No. 559, 2004)

Aside from the above items, other issues of Muslim women were also reported, including their lack of mobility, and economic opportunities (the ARMM region remains to be one of the poorest in the country). But let us focus the attention to the report of the Philippines about the need to repeal CMPL. Although they did not specify in the report about what aspect of the CMPL are discriminatory against women ergo the need to be repealed, the delegation of the Philippine government was able to shed light on this matter during 36th Session of the UN CEDAW Committee in New York on 15 August 2006.

Session Chairperson Ms. Schopp-Schilling of the CEDAW Committee asked *“how the (Philippine) government intended to reform legislation with regard to the Muslim personal laws, how those laws failed to comply with the Convention, whether and how the independent Sharia courts were to be reformed, and when all such reforms would be completed.”* Atty. Evelyn Dunuan, then Commissioner of the Philippine Commission on Women, responded with:

“The Code of Muslim Personal Laws contained a number of discriminatory provisions, such as those relating to polygamy, marriage under the age of 18, arranged marriage and unequal rights of women in marriage and in terms of authority over children. It was recognized that all norms relating to personal and family relations should be in line with the Convention, but there was also a need for cultural sensitivity towards the country’s large Muslim population.” (Summary record of the 747th meeting, No. 24, 2006)

Even further at the discussion, a Ms. Gaspard, another member of the CEDAW Committee, pointed out:

“44. ... welcomed the fact that the Family Code had been revised in 1997 in order to eliminate certain discriminatory measures. However, the problem remained that the Civil Code did not apply to all women in the Philippines, owing to the existence, alongside the Family Code, of the Code of Muslim Personal Laws and customary law (on which the Committee had no information). (...) Noting that Muslim law, in contradiction with the Civil Code, allowed marriage at the age of 15 or even 12, as well as polygamy, she asked what the Government was doing to discourage such regrettable phenomena.

It is important to read the actual summary record of what transpired during the meeting between CEDAW Committee and Philippine Delegation because note that in the country report, the Philippines reported only the

³ Actual document can be found in: <http://www.pcw.gov.ph/publication/combined-5th-and-6th-cedaw-report-philippines>

issues about judges and Sharia courts. However, during the discussion where the Delegation was allowed to elaborate, a member of the delegation suddenly mentioned that the CMPL needs to be repealed because it contained a number of discriminatory provisions, such as those relating to “polygamy, marriage under the age of 18, arranged marriage and unequal rights of women in marriage and in terms of authority over children.”

And though it was not specifically mentioned in the report, the Committee took note of this and reflected it in the Concluding Comments which was then the basis of a number of gender equality programs and projects in the Philippines. Specifically, the relevant Concluding Comment stated, “the Committee is particularly concerned about existing discriminatory provisions of the Code of Muslim Personal Laws, which permit marriage of girls under the age of 18, polygamy and arranged marriages.”

In a parallel line of reporting, women’s civil society and non-government organizations in the Philippines prepared and presented their NGO/CSO Shadow Report which stated the following recommendation related to the Code of Muslim Personal Laws, and Muslim women:

“b. Undertake a systematic review of all legislation and initiate all necessary revisions to achieve full compliance with the provisions of the Convention; intensify dialogue with the Muslim community in order to **remove discriminatory provisions from the Code of Muslim Personal Laws**; sensitize parliamentarians and public opinion regarding the importance of these reforms.

But what really is the significance of knowing all these CEDAW reporting and Concluding Comments in this whole research endeavour? Without enabling bodies and, in this case, resources to encourage compliance, implementing international law will be quite a challenge. Thus this leaves a crucial role for UN offices in a country to make sure that international instruments ratified are put into use. It is also important to understand how the United Nation entities work in the Philippines in order to situate CEDAW as a policy and guiding document for action.

After aforementioned significant events in the international level, two major programs were implemented in the Philippines that lead to the formulation of the Muslim GAD Code. These two projects are the UN-Joint Programme to Facilitate the Implementation of the UN CEDAW Concluding Comments (2007-2010), and the UNFPA-PCW Project Partnership ‘Strengthening Government Mechanisms in Mainstreaming Gender in Reproductive Health, Population and Anti-VAW Programs’.

With the CEDAW Concluding Observations as a basis for development programming and a way to continue supporting the government and non-state parties to fulfil their obligations to the convention, the UN Gender Mainstreaming Committee (UN GMC) was established in 2006 as the gender entity of the UN in the Philippines with the mandate to provide technical support to ensure that gender equality and women’s empowerment are prioritized in the UN supported programmes and projects.

The UN GMC is composed of the gender focal persons of the different UN agencies in the Philippines together with a representative of the national machinery on women, the then NCRFW. The ‘joint programming approach,’ is defined by the United Nations Development Group’s Guidance Note on Joint Programming (19 December 2003) as:

“the collective effort through which the UN organizations and national partners work together to prepare, implement, monitor and evaluate the activities aimed at effectively and efficiently achieving the MDG and other international commitments arising from UN conferences, summits, conventions and human rights instruments.”

The release of the Concluding Comments in August 2006 by the CEDAW Committee provided the opportunity to design and implement a joint programme.

In February 23, 2007, five UN agencies - United Nations Development Programme, United Nations Children’s Fund, United Nations Population Fund (UNFPA), UN Habitat and United Nations Development Fund for Women (UNIFEM, now UN Women) signed a Memorandum of Understanding (MOU) for a Joint United Nations Programme to Facilitate the Implementation of the CEDAW Concluding Comments (hereinafter referred to as the JP-CEDAW). Consistent with the mandated joint programming approach, the JP-CEDAW was developed to align and link responses to the gender equality gaps and most importantly poised to assist the Philippine government to address gaps in the responding to CEDAW.

At the time the ARMM GAD Code was being conceptualized, several UN entities worked together to make it happened. Sharing of resources, monitoring and technical assistance to their partners were extended. Note again one of the guiding documents of these projects was the Concluding Comments and the main goal was to address the issues surfaced in said report, one of which is of course comment on reviewing and repealing discriminatory laws.

The PCW-UNFPA Project, on the other, was built upon the goal of the UNFPA 6th Country Program of Assistance of improving the reproductive health of the Filipino people through better population management and sustainable development. Under one of the project’s components, PCW and UNFPA local government units in preparing their GAD Codes, one of the chosen area is ARMM. Gender issues in population, reproductive health that are linked to poverty are the main foci of this particular collaboration between a UN entity and a government office. As early as the 1990s, the several offices under the United Nations that have experimented with religiously-based approaches to gender-related advocacy used the areas of reproductive health in relation to family laws as one of the methods in approaching women’s rights advocacy in Muslim communities as these are the areas in which Islam is most often invoked in order to curb women’s rights (Kirmani and Phillips 2011).

4.1.2 The Philippine Government

The State is known as the primary subject of international law (Cassese 2005: 71); States carry the burden and responsibility to comply with certain obligations stipulated in international treaties they have become a State Party to. Throughout the course of the making of the ARMM GAD Code, including the consultations conducted prior the actual drafting, there were a lot of State agencies involved both in the local and national level. However, two government entities had the most crucial roles, the Philippine Commission on Women (PCW) and the Regional Commission on Bangsamoro Women (RCBW).

The Philippine Commission on Women (PCW) is the national machinery for gender equality and women's empowerment; it is the primary policy-making and coordinating body on women and gender equality concerns. The PCW is also the office accountable for monitoring the implementation of CEDAW in the country. They lead the preparation of country reports to the CEDAW Committee. Already provided an overview in the previous Chapter the extent of which the Philippines has complied with the Convention, and the role the PCW has played in it. Now, focusing on their part in the formulation of the ARMM GAD Code, the PCW had actively partnered with several UN agencies in several programs and activities that target specifically Muslim women of ARMM. The PCW-UNFPA Project on reproductive health, population and VAW which was already described early was one of them. The PCW along with NGOs, had embarked on a dialogue with women and with leaders of the Muslim community in the ARMM, which had its own regional government and laws. It was hoped that Muslim women themselves would increasingly agitate for change. The PCW also engaged their local counterpart, the RCBW.

The RCBW is the women's machinery in the ARMM region. Like the PCW for the entire country, the RCBW's mandate is coordination and policy recommendation to the ARMM executive bodies on gender concerns. The RCBW, however, have been encountering challenges due to varying reasons, including in the areas of financial support, personnel and capacity building, and sustaining linkages among partners.⁴ Under the UN JP-CEDAW: a component was developed for the 'Mentoring and Monitoring of the Regional Commission on Bangsamoro Women on Moro Women's Rights in ARMM'. It was implemented by the PCW from November 2008 to April 2010.

4.1.3 The Muslim Women of ARMM

In the UN Joint Program on CEDAW, three particular project implemented under the JP CEDAW are of relevance and helped in the drafting of the ARMM GAD Code. In this three projects, two grassroots organizations of

⁴ According to the Technical Liquidation or Final Report of Grant or Subsidy of the AEI, prepared December 2007

Muslim Filipino women were involved, Nisa Ul-Haqq Fi-Bangsamoro and Al-Mujadillah Foundation (AMDFI). AMDFI implemented their activities in two provinces (Maguindanao and Lanao Sur) of ARMM to determine the application of CEDAW on Muslim women through consultations during the period 2007-2008.

In 2008, both NISA and AMDFI undertook the baseline research on early marriage among Muslim women, covering five provinces of ARMM. The Nisa Al Haqq Fi-Bangsamoro led the research on early marriage of Muslim Women covering all 5 provinces in ARMM. For the first time, the research surfaced lived realities of Muslim women covering the major ethnic groups among the Muslims in the ARMM areas notably the Maguindanaoans, Maranaos, Yakan, Tausug, and Samals. The survey targeted 600 respondents and reached 593 respondents. Systematic documentation of early and arranged marriage, polygyny, and child brides provided the most concrete evidence of violation of CEDAW. The activity was the first organizational project for Nisa and opened up its organizational links with grassroots Muslim women in the covered areas. It likewise transformed professional Muslim women involved in the research to become advocates for CEDAW among Muslim women. (UN 2011) Unfortunately, the results of the study are not readily available, and even after several attempts, acquiring a copy of study was a challenge. But as it is still part of the same project that also supported activities for the drafting of the ARMM GAD Code, I am taking on the assumption that results of the baseline study were considered and influenced the policy-making process.

Prior to the actual drafting of the ARMM GAD Code, several meetings and consultations on “gender issues in the context of Islam” with participants from the ARMM region were conducted. Participants, mostly Muslim women, came from the regional and local government units, non-government organizations based in ARMM such as the Nisa Ul-Haqq Fi-Bangsamoro and AMDFI, and Muslim religious leaders. In the Conference on Gender Issues in the Context of Islam held in October 2007, list of gender issues were identified by the participants, including but not limited to polygamy, early marriage and forced (arranged) marriage. Although the Conference did not call for the repeal of the CMPL itself, participants have acknowledged that such issues exist due to ‘ignorance of Islamic principles’.⁵ With regard to early marriage, they reasoned the need for it to be addressed is because “it affects the reproductive health of the younger women.” They also identified economic rights of women, discrimination in workplace, and disproportionate ratio of men and women in elected positions, among others, as issues.

While we recognize the importance of consultations like such the kind of venue it provides for discussion of sensitive issues, is it enough to identify accurately the needs and issues of Muslim women?

⁵ Workshop Results during the Conference on Gender Issues in the Context of Islam, Workshop and Recommendations, October 2007 (Appendix 2)

4.1.1 Some Insights and Reflections

Krivenko (2009) noted that both feminist scholarship and a significant part of Islamic tradition advocate this process-oriented vision of law which, although have some basic substantial rules, is not limited by those rules. Having a multi-level and multi-sectoral approach to policy-making has always been the “target” process, especially when it comes to gender equality legislations. The MCW, for example, was done so consultatively and tediously that it took more than a year to finish the Implementing Rules and Regulations, drafts had to undergo and be scrutinized in policy consultations and drafting sessions with different stakeholders, most importantly of course are the women’s groups. The ARMM GAD Code is no different, especially in paper. The ARMM GAD Code is a result of multi-level negotiations among actors involved in policy formulation with an attempt to produce an intersectional approach to policy making by producing an all-encompassing policy that does not only cover, enhance the rights of women already stipulated in the CMPL and MCW. The making of the ARMM GAD Code was pushed for by many reasons, though determining which of the factors contributed more require a more extensive research than this, I am taking on the assumption that these multiple “push” factors interplayed and supported each other—from the Concluding Comments of the CEDAW Committee, to the passage of the passage of the MCW that mandated local governments to formulate gender and development (GAD) plans, to the special attention of and financial resources provided by UN offices in the Philippines, as well as the strong pressure from the international community especially towards the PCW as the machinery on women to respond to the Concluding Comments. The PCW, as national government office, is limited to its main clientele which is its fellow government agencies also. It seldom has link with women themselves (this limited authority of the PCW has also been noticed by the CEDAW Committee). The PCW regarded this attention and pressure from the international community as an opportunity to gather resources and link with Muslim women in ARMM.

4.2 The ARMM GAD Code: A Policy Analysis

Let me begin the analysis of the policy under scrutiny, the ARMM GAD Code, by first bringing back what it says about the three practices that initially it was supposed to address- polygamy, arranged marriages and child marriages. Bearing in mind that the CEDAW Committee called for the repeal of the Code of Muslim Personal Laws because of these three practices which the Philippine Government (as proven by the transcript of reporting, and their actual country report) as discriminatory and currently happening in the Philippines. For those three practices alone, may I a lot a small part of this section to see what the ARMM GAD Code (again, a policy effort to respond to the Concluding Comment) has to say. For the purpose of clarification, polygamy and polygyny

in this research will be used interchangeably, since it has been the more popularly used term in CEDAW and government reports and documents. Notwithstanding of course that polygamy has two kinds, polygyny and polyandry. But as only polygyny is the only allowed under Islamic law, it goes without saying that discussions on polygamy refers polygyny, defined as “to a custom of being married to more than one wife at the same time” (ARMM GAD Code 2010).

4.2.1 The ARMM GAD Code on Polygamy, Arranged Marriage and Child Marriage

Article 27 of the CMPL covers the grounds for practicing polygyny, its states, “Notwithstanding the rule of Islamic law permitting a Muslim to have more than one wife but not more than four at a time, no Muslim male can have more than one wife unless he can deal with them with equal companionship and just treatment as enjoined by Islamic law and only in exceptional cases.” Noting that permissibility of polygyny in Islamic law is based on Qu’ran 4:3 which provides that “...marry women of your choice, two, three, or four; but if you fear that you shall not be able to deal justly [with them] then only one, or [a captive] that your right hands possess. That is nearer to prevent you from doing injustice.”

Muslim scholars and jurists have advanced reasons such as demographic needs, economic facts, barrenness of the wife, chronic illness of the wife, higher sexual needs of men, among others, in their attempt to substantiate the conditional permissibility of polygamy in Islamic law. Problems like the barrenness of the wife are however quite resolute in the arguments for the justification of conditional polygamy in Islamic law. Similar arguments exist also in other cultures. Thus where the wife is found barren, the husband is usually inclined towards taking another wife, even though he does not divorce his barren wife. (Baderin 2003) Men were thus allowed to have a maximum of four wives at a time. Both classical and contemporary Muslim jurists generally concur that the ability to treat co-wives justly, as stated in the Quranic verse above, is a precondition to the permissibility of polygamy. This, as many contemporary Islamic scholars and jurists, discourages polygamy and advocates monogamy (Baderin 2003). Also, most of the justifications by Muslim scholars may be stiffly contested in the light of present day circumstances.

The view that the ability to deal justly between co-wives is a legal precondition to polygamy had been further argued by other schools and taken together with Quran 4:129, which says ‘You will never be able to do perfect justice between wives even if it is your ardent desire...’, to reach a conclusion that polygamy is actually prohibited under Islamic law. Advocates of that view argue that the Quran itself confirms the inability and difficulty of men to fulfill the prerequisite of dealing justly with co-wives. The pioneer advocate of that interpretation was the nineteenth century Egyptian jurist, Muhammad Abduh, who, at the close of that century, argued that the abuse of polygamy created

injustice to women and he advocated its proscription through a combined interpretation of those two Quranic verses. However, the view is still strongly rejected by Muslim scholars who maintain and support the traditional interpretation that allows polygamy provided that injustice is ensured between co-wives. (Baderin 2003: 140)

According to Baderin (2003), “despite a trend in the Muslim world today generally in favor, at least, the restricted polygamy by invoking the Quranic verse and requirement of the husband’s capability to support a second to fourth wife, most Muslim scholars and jurists hesitate to declare outright prohibition for the fear of violating the sanctity of its Quranic permissibility. An outright prohibition of polygamy, as what Tunisia enforced in 1956, has been criticized as contravening to the Quran.”

On the other hand, in Muslim societies where polygamy is still being widely practiced, the prerequisite of being able to do justice between co-wives is rarely given any consideration by men. The permissibility of polygamy is often abused in a way that actually works against the institution of family itself which the Quran aims to uphold and protect from the very beginning.

It is noteworthy that most discussants and advocates of women’s rights proceed from the premise that there is only one way of rectifying the inequality and abuse of polygamy which is through prohibition. This view is shared and being upheld not only by UN CEDAW Committee but other human rights committees as well. After all, if it’s the women themselves who feel violated and have identified polygamy as one of their (whether it is the practice itself or the failure of some husbands to support the wives equally), is there any other way then to approach this dilemma within the acceptable limits of Islamic law and still satisfy their obligations under international human rights law? Baderin named the “equalizing up” approach as something that might redress inequalities and injustices brought upon by the practice.

‘Equalizing up’ means raising the rights of the victims of the inequality, as opposed to lowering the rights of those advantaged, which is the ‘equalizing up’. Though in the CMPL, it is already clear that Muslim men can only have more than one wife if he can deal with them with equal companionship and just treatment, the ARMM GAD Code provided stricter and clearer terms. According to Section 40 of the Code,

“Notwithstanding the rule on polygamy, no Muslim man shall be allowed to contract subsequent marriage unless the following requirements are complied with to the satisfaction of the court: a) physical and economic capability of the man; b) capability of the husband to equal treatment; c) the subsequent marriage must be under exceptional circumstances; and d) the contracting parties of the subsequent marriage should have undergone pre-marriage counseling.”

The pre-marriage counseling is also an additional feature, further elaborated in Section 37, “*Individuals seeking to enter into a contract of marriage shall undergo pre-marriage counseling. (...) [They] shall also issue a pre-marriage counseling certificate as a*

requirement for the solemnization of marriage. For this purpose, the local government units (LGU) shall employ a competent Muslim religious leader to discuss about marriage in Islamic perspective during the seminar.” The local ordinance mandated concerned offices, including the social welfare office, to develop a pre-marriage counseling module in the context of Islam to serve as a reference and guide. Aside from the pre-marriage counseling, another mechanism put in place by the ARMM GAD Code is pre-nuptial agreement. Section 35 says, *“A pre-nuptial agreement shall be considered part of the marriage settlement of the contracting parties only when it is in accordance with Islamic law. It must be in writing and attached to the certificate of marriage, and duly registered with the Shariah Law Registry Office.”* Notice though that it is not mandatory, and is only encouraged to be “considered” by the couple.

Finally, the ARMM GAD Code emphasized the importance and need for the consent of the women when undergoing marriage. Section 34 states, *“(…) It is the duty of the solemnizing officer or wali to obtain and publicly declare the consent of the woman to the marriage. However, should the woman, for valid reasons refuse to give her consent, the solemnizing officer shall not solemnize the marriage.”*

The elaboration of terms of polygamy, especially the emphasis on the husband’s physical and economic capability to equally support the wives, the reiteration of women’s consent as an pre-condition for marriage, and the introduction of the pre-marriage counseling and pre-nuptial agreement are a combination of corrective and non-discriminatory features of the local ordinance—making sure unjust practices are corrected to lessen the chances of possible abuse or injustice, at the same providing equal opportunities for husband and wife by requiring both of them to undergo counseling.

“Any disadvantages then of polygamy could be redressed by women utilizing an alternative legal rights made available to them by the new local ordinance, which is still within the Islamic law and at the same time ensuring the freedom and choice of women to be co-wives” (Baderin 2003: 143). This additional mechanisms put into place by the ARMM GAD Code do not contravene the Shariah and would also indirectly satisfy the obligations of the Philippines under CEDAW to ensure equality of rights in marriage (of Muslim women) and the Concluding Comments to address gender inequalities in polygamy. This way the focus of international human rights law would be seen to be specifically on human rights and not on questioning the basis of religious teachings per se, and thus promote a complementary approach to solving this human rights dilemma (Levitt 1998).

The issue of arranged and child marriages merit a different discussion, in fact they bring out a different gamut of arguments altogether. During one of the conferences on gender issues in Islam held prior the drafting of the ARMM GAD Code, early marriages is one of the issues identified as it affects the reproductive health of the younger women, and if it’s not addressed may cause early deaths among young women. Many factors contribute to the prevalence of early marriages, such as economic reasons. Under the CMPL, *“any Muslim*

male at least fifteen years of age and any Muslim female of the age of puberty or upwards and not suffering from any impediment under the provisions of this Code may contract marriage. A female is presumed to have attained puberty upon reaching the age of fifteen, and the Shari'a District Court may, upon petition of a proper wali, order the solemnization of the marriage of a female who, though less than fifteen but not below twelve years of age, has attained puberty” (Article 16.1-2). Current laws on marriage in the Philippines do not allow marriages of and among children. The current definition of “children” in the Philippines, in coherence with the UN Convention on the Rights of the Child (CRC), refers to “those who are below eighteen years of age or over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition” (MCW 2009). This definition was also reflected and adopted in Section 4.5 of ARMM GAD Code. Although it was identified as an issue, complete prohibition of the child marriages was not guaranteed under the new local policy, the ARMM GAD Code further asserts that, “*Child or early marriages shall be **discouraged**. ARMM agencies, non-government and civil society organizations shall conduct strong advocacy campaign against child or early marriages”* (ARMM GAD Code 2010).

As for arranged marriages, interestingly, although the CMPL does not outrightly provide for the legalization of arranged marriages, it has been an observed practice among Muslims which have greatly disadvantaged Muslim women. The ARMM GAD Code remains silent on it as well. Although it included “Arranged Marriages” in the definition of terms, never was it again mentioned throughout the law; but again, the importance of women’s consent was given emphasis.

4.2.1 A Rights-based Approach to Policy-Making

In choosing the strategies to introduce a gender and development Code in ARMM, it was necessary to minimize antagonism and foster an open environment that promotes dialogue among local actors, especially the Muslim women and religious leaders. Although this research does not cover the tedious negotiations that were held during the drafting, the ARMM GAD Code in its entirety reflected that the approach and strategies employed recognized the complexity of factors that determine gender-related constraints without privileging any singular identity or set of actors.

This rights-based approach (RBA) to policy-making is currently being mainstreamed in the Philippines, along with gender mainstreaming. Having strong ties and influence with UNDP and other UN offices, a number of Philippine government offices have undergone trainings on rights-based approach to development. A recognition of the fundamental links between rights denial, impoverishment, vulnerability and conflict has led to the incorporation of rights-based approaches into funding strategies, policy formulations and practice of diverse range of actors (Gready and Ensor 2005: 1). For the UN, UNDP was as a notable intellectual leader within the UN in

using and elaborating the meaning of a rights-based approach (Cornwall and Nyamu-Musembi 2004).

One simple indication of this is the use of the language ‘claimholders’ and ‘duty-bearers’. The RBA sees importance in identifying clearly whose rights are being upheld (claimholders) and who are the responsible for making sure entitlements are available and provided for (dutybearers). This is apparent in both the MCW and the ARMM GAD Code where there is clear detailing of claimholders and their rights, and duty bearers and their corresponding roles and responsibilities. Considering CEDAW was the guiding document in these two policies, rights stipulated in the Women’s Convention were adopted and, for some, were further detailed to contextualize based on the situation of women in that particular realm of right.

However, putting on paper the institutional mechanisms and set-up necessary for policy implementation does not suffice, such is the case for the Sharia Courts. The ARMM GAD recognizes the Sharia Courts as vital in the implementation of this local policy, therefore reiterating their roles and jurisdiction over cases of abuses in the practice of polygyny, unwarranted divorces, violence and discrimination; divorce; ensuring the consent of the parties to marriage, especially that of women, must be freely given and that they underwent pre-marriage counselling. But despite this reiteration of roles of the Sharia Courts, challenges facing within such judicial system (as described briefly in Chapter 3) were not addressed by the new law. So will the Sharia be able to carry on effective implementation of their duties specified in the Code? This is just one of the challenges that need to be addressed in parallel with the implementation of the local policy, otherwise its intentions will be compromised if institutional mechanisms are insufficient and incapable.

Some of the provisions of the ARMM GAD Code were local adoption of what was already in the national laws, like the Magna Carta of Women, laws on Violence against Women and Children, Voyeurism, Sexual Harassment, Prostitution, and Trafficking. At first glance, it may look as if the ARMM GAD Code may be a compilation of various national laws. But some are entirely new and contextualized in the situation of Muslim women, particularly Chapter 9 on Marriage and Family Relations. This Chapter covers the mandatory pre-marriage counselling and consideration of pre-nuptial agreements. Also the one on Chapter 14 on Women and Children in Armed Conflict which provides for the protection of said sectors and the provision of psychosocial support and post-conflict rehabilitation.

4.3 Summary of Findings

Data presented in this Chapter has also shown how issues of Muslim women were packaged and how this “packaging” of issues became a way to gather support (financial, policy support) from different stakeholders. Pressure from the international community and Muslim women’s groups were also factors

that pushed the national women's machinery to proceed with such undertaking.

While addressing issues in polygamy, arranged and early marriages were the initially the goal of passing the ARMM GAD Code because those were the 'popular' themes, as a result of consultation with Muslim women in ARMM, other issues were surfaced and the ARMM GAD Code became a legislative effort to address those other issues as well. In fact, economic concerns and issues related to armed conflict were deemed to be more urgent and of greater importance. So despite the absence of full prohibition of the practices called as discriminatory by CEDAW Committee, entitlements of women related to political rights, cultural identity, health care, education, socio-economic concerns, environmental concerns, and armed conflict were provided for in the ARMM GAD Code.

For some of those involved with promoting rights-based approaches, Cornwall and Nyamu-Musembi argued that because of these sets of internationally agreed legal documents that talking of rights provides a different and possibly a more powerful, approach to development (Cornwall and Nyamu-Musembi 2004). Even though prior the formulation of the Code, the focus was on provision of the MCW to make efforts to address discriminatory provisions of the CMPL, the ARMM GAD Code became a policy effort to pay special attention to the needs of Muslim women living in ARMM, and according to the MCW "ensuring that they have access to health care, social security, education, clean water and sanitation services, fertile land, income -generation opportunities and participation in decision - making processes" (MCW 2009).

While there can be no singular strategy or approach for the achievement of equality of rights especially in the light of Islam, contextualizing approaches within particularities of local power relations proved to be an important step, especially in policy-making. Women's participation is also crucial. There are several advantages to engaging positively with religion as part of women's rights advocacy. On a strategic level, using Islamic approaches can be one way of deflecting accusations of taking a 'Western' or anti-Muslim approach. Gender-related advocacy is often met with resistance on religious grounds. In such situations, as what the formulation of the ARMM GAD Code manifested, it is often necessary for women's rights advocates to use Islamic arguments to counter criticisms (Adamu 1999) and look for alternative ways to counter areas of injustices. Additional protective mechanisms such as pre-marriage counselling or nuptial agreements can alleviate or at least lessen cases of abuses. But should injustices persist, services such as health care services, education, etc. should also be made available for women. These were all reflected in the ARMM GAD Code. Now the question is, will it be another of those policies that looks good in paper, but will only remain that way?

Further, there remains some issues in the CMPL that are left to be addressed, particularly those with regard to women's ability to exercise her right to pursue an occupation, which is also inconsistent with Islamic teachings, and their right to acquire a property—both requires their husband's consent. The ARMM GAD Code failed to address said inconsistencies.

Chapter 5

Conclusion

This research was aimed at answering the question, “*How did the ARMM GAD Code address tensions between Women’s Convention and Islamic law to promote the rights of the Muslim women of ARMM?*” I began answering by providing first the current theoretical discussions and debate surrounding the advocacy of women’s right in light of international law and Islam. Here we discovered that, like any other law in the land, international law and Islamic law are works of people and are open to various interpretations that may sometimes result to inequalities and injustices. But, as we’ve discovered, Islamic principles on equality and justice can also serve as an important vehicle to push for rights of Muslim women. More importantly, the dynamism of Islamic law and the diversity of views and interpretations can also open up spaces for feminists’ interpretations and gendered analysis.

Further, though tensions and some points of contradictions exist between these two sources of rights, there are different approaches and strategies used by advocates to push for gender equality and women’s agenda in Islam. Policy measures are an important entry point to correct or address whatever discrimination is brought upon by some Muslim practices; but understanding the context behind these traditions, and power relations on the ground is an important step.

By also reviewing the actors and the events which led to the policy formulation, what seemed to be tiny details provided clarification and shed light to some questions. For example, although the CEDAW Committee’s stand on polygamy, arranged and early marriages have been consistent, that is, those are discriminatory practices and therefore needs to be address, it is important to understand that the CEDAW Committee also relies on what the governments are reporting. Concluding Comments are prepared by the CEDAW Committee as a response to Country Reports. It is therefore necessary for governments to also assess themselves on what lens and perspective (whether Islamic, international law, or even Christian) they are using in preparing these country reports.

Implications to Policy-making

As someone who is affiliated with the national women’s machinery, I recognize the need for State Parties, such as the Philippines, to comply with all these international treaties such as the CEDAW. While the debates on international human rights treaties are “western” concepts therefore cannot fully depict what is happening to the rest of the world, especially the global south, are still valid and worth more attention from feminists and gender activists, international treaties can also be a good starting place to push for rights of women. As what this case study has shown, CEDAW and its national

translation, the MCW, become guiding documents to articulating rights of marginalized sectors. Some women's groups especially those that are active in national and international advocacy use asserts the rights under CEDAW when pressuring the government to act on issues; national women's machineries, like the PCW, also use CEDAW to mandate their fellow government agencies who are much more in power (and are actually accountable) to providing services for women. However, I also recognize the complexity of matters when factors of religion come in. The call for respect for people's freedom of religion and self-determination should not be taken light. But if religion is used as a means of justifying harmful practices and unequal relationships, then women's rights advocates cannot afford to just ignore it. Another lesson that we can take from the case of the ARMM GAD Code is that introduction of laws on women based on international treaties does not necessarily mean attacking religious practices per se. The question of "how" to strategically do this it is always the most difficult. The challenge of finding effective and process-oriented approaches respect opinions and beliefs of the women remains a challenge.

The ARMM GAD Code created a space for a dialogue on rights of Muslim women and to address or simply discuss the tensions between the CEDAW and the CMPL. It also introduced alternative means of addressing issues and injustices brought upon by some practices. It has been a milestone of a process to gather different stakeholders to sit down and listen to the concerns of Muslim women. The Code also provided was a way recognizing other rights that are enshrined in both CEDAW and Islamic law, including those in the areas of education, and health, among others.

However, these policies do not always translate into improved condition and status of women in the country. Some might equate this to eventual poor implementation and monitoring of laws in place, but sometimes, policies do not really capture the needs of the women on the ground. The ARMM GAD Code, even the Magna Carta of Women, are relatively new policies; though it is still too early to say whether they have already made impact in the lives of Muslim women in ARMM, the government, nor the Muslim women's groups, should not be complacent. There's still so much work to be done.

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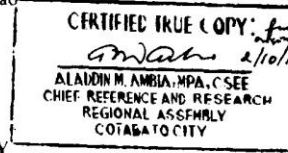
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Appendix 1

RA BILL NO. 55

Republic of the Philippines
Autonomous Region in Muslim Mindanao
REGIONAL ASSEMBLY
Cotabato City



SIXTH LEGISLATIVE ASSEMBLY
(Third Regular Session)

[MUSLIM MINDANAO AUTONOMY ACT NO. 280]

Begun and held in Cotabato City, on Monday, the twenty-six day of October, two Thousand and eight;

**AN ACT PROVIDING FOR THE GENDER AND DEVELOPMENT
CODE OF THE AUTONOMOUS REGION IN MUSLIM
MINDANAO AND FOR OTHER PURPOSES.**

Be it enacted by the Regional Assembly in session assembled.

**CHAPTER I
GENERAL PROVISIONS**

Section 1. Short Title. - This Act shall be known as "The ARMM GAD Code."

Sec. 2. Declaration of Principles and Policies. - The Autonomous Regional Government of Muslim Mindanao adheres to the Islamic way of life and endeavors to establish and implement Shari'ah inspired legislations

To achieve these ends, the Autonomous Regional Government shall formulate and develop mechanisms to strengthen existing structures promoting equity and equality, and to address issues on discrimination, marginalization and inequality in the economic, political, social or cultural life of women and men as well as boys and girls in the Autonomous Region

Guiding Principles

The following guiding principles shall serve as directional indicators in the interpretation and implementation of this Code:

A. Islamic Principles on Gender and Development under the Glorious Qur'an particularly Surah Al-Nisa' (4:1), Surah Al-Isra' (17:70), Surah Luqman (31:14), Surah Al-Nahl

(16:72), Surah Al-Ma'idah (5:32), Surah Al-Ahzab (33:35), Surah Al-Tawbah (9:71), and Surah Al-Rum (30:21).

B Relevant Principles in the Hadith and Sunnah of the Holy Prophet Mohammad

C Principles under various International Agreements, Treaties and United Nations (UN) Declarations particularly. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Resolution No. 1325, UN Declaration on the Elimination of Violence Against Women (1993) and Beijing +5 Platform for Women.

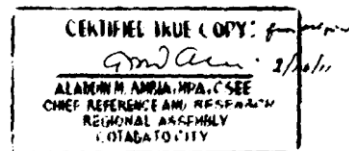
D Principles embodied in the applicable provisions of the Philippine Constitution and Special Laws, such as: The ARMM Organic Act (RA 9054), Code of Muslim Personal Law (PD 1083), Magna Carta of Women (RA 9710), Women in Development and Nation Building Act (RA 7192), Anti-Rape Law of 1997 (RA 8353), Anti-Trafficking in Persons Act of 2003 (RA 9208), Anti-Violence Against Women and Children Act of 2004 (RA 9262) and Sustainable Forest Management Act (MMA Act 161).

Policies

It is hereby the declared policy of the Autonomous Regional Government to

1. Uphold and protect the fundamental rights of women, men and children regardless of race, gender, faith, status, creed, including the right of women to engage in lawful productive employment, and for them to be protected from all forms of exploitation, violence, trafficking and discrimination;
2. Affirm the role of women in nation-building and ensure the substantive equality of women and men as well as boys and girls;
3. Promote empowerment of women and pursue equal opportunities for women and men as well as boys and girls;
4. Provide equal access to resources and development inputs, outputs and results, and
5. Ensure equality of men and women as well as boys and girls through social structures and practices that nurture their full development.

Sec. 3. Construction and Interpretation - In the construction and interpretation of the provisions of this Code, nothing herein shall be construed in violation of any religion, and belief or faith. The local customs, traditions and ordinances are hereby recognized and shall be given effect in so far as they are consistent with the Organic Act or the Constitution.

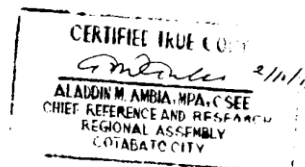


**CHAPTER II
DEFINITION OF TERMS**

Sec. 4. Definition of Terms. – As used in this Code, the following terms shall mean:

1. **Amanah** - is an Arabic term for trust and it refers to man's stewardship of Allah's creations.
2. **Arranged Marriage** - is basically a marriage arranged by someone other than the couples getting married. This is usually decided by the parents or an older family member.
3. **ARMM** - refers to the Autonomous Region in Muslim Mindanao.
4. **Bangsamoro** –refers to those citizens of the Philippines who are believers of Islam and who have retained some or all of their own social, economic, cultural and political institutions.
5. **Children** - refers to those persons who are below eighteen (18) years of age or over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.
6. **Civil Society Organization** - refers to the autonomous membership-based, cause-oriented, or service-oriented organization, which share a common defining identity - social solidarity with the people in the society it serves or represents.
7. **Darul-Ifta** - refers to the collegial body of ulama and experts that renders legal opinion on a given issue or question. The legal opinion (ifta') must be based on the primary sources of law (i.e., the Glorious Qur'an, the Hadith, Ijma and Qiyas) and the accepted views of the classical jurists and legal luminaries and experts.
8. **Differently-Abled Person** - refers to a person suffering from restriction or different abilities, as a result of a mental, physical, or sensory impairment to perform an activity in the manner or within the range considered normal for a human being.
9. **Discrimination Against Women** - refers to any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field. It includes any act or omission, including by law, policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges, and when a measure or practice of general application fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations as a result of which women are denied or restricted in the recognition and protection of their rights and their access to and enjoyment of opportunities, benefits, or privileges. It includes also discrimination compounded by or intersecting with other grounds, status, or condition, such as ethnicity, age, poverty, or religion.

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10. **Early Marriage** - refers to all marriages contracted by the parties whose ages are below eighteen (18) years old

11. **Fatwa** - refers to the legal opinion rendered by the body of ulama and experts on a given issue

12. **Forced Marriage** - refers to the kind of marriage where the consent of either or both parties was obtained through the use of force, violence, threat or intimidation

13. **GAD - is the acronym for Gender and Development** which refers to the development perspective and process that are participatory and empowering, equitable, sustainable, free from violence, respectful of human rights, supportive of self-determination and actualization of human potentials. It seeks to achieve gender equality as a fundamental value that should be reflected in development choices, seeks to transform society's social, economic, and political structures and questions the validity of the gender roles they ascribed to women and men, boys and girls; contends that women and girls are active agents of development and not just passive recipients of development assistance; and stresses the need of women and children to organize themselves and participate in political processes to strengthen their legal rights.

14. **Gender Equality** - refers to the principle asserting the equality of men and women to enjoy equal conditions for realizing their full human potentials and benefit from the results of development and with the State recognizing that all human beings are free and equal in dignity and rights.

15. **Gender Equity** - refers to the policies, instruments, programs, services and actions that address the disadvantaged position of women in the society by providing preferential treatments and affirmative actions aimed at accelerating de facto equality between men and women

16. **Gender-Fair** - refers to any practice, policy or procedure giving equal treatment to an individual or a group.

17. **Gender Mainstreaming** - refers to the strategy for making women and girl's as well as men and boy's concerns and experiences an integral dimension of the design, implementation, monitoring, and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. It is the process of assessing the implications for women and men, boys and girls of any planned action, including legislation, policies, or programs in all areas and at all levels.

18. **Gender Responsive** - refers to that laws, policies and procedures made that should be accommodating to people regardless of race, class, sex, religious affiliation and cultural status and ethnicity.

19. **Guidance and Counseling** - is the process of helping individuals discover and develop their educational, vocational, and psychological potentialities and thereby to achieve an optimal level of personal happiness and social usefulness. The conduct of guidance and counseling in ARMM is not only limited to emotional counseling but also include spiritual counseling.

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20. **Gynecology** - refers to women's health care, especially the diagnosis and treatment of disorders affecting the female reproductive organs including breast, menstrual disorders, menopause, infectious diseases and maldevelopment of the reproductive organs, disturbances of the hormones, benign and malignant tumor formation, and the prescription of contraceptive devices

21. **Hadith** - refers to the sayings and actions of the Holy Prophet Muhammad (S A W) and the actions of his venerable companions which he approved. It is the second primary source of conventions and declarations.

22. **Halal** - is an Arabic term which means permissible. It refers to something allowed by Islamic doctrines (Qur'an, Hadith and Fatwa).

23. **Halaw** is a Malay term which refers to Filipino refugees or illegal migrants deported by the Malaysian immigration authorities and made to board in any vessel bound for the Southern Philippine Islands regardless of their point of disembarkation.

24. **Haram** - is an Arabic term which means anything that is strictly forbidden in Islam or something that is not allowed by Islamic doctrines (Qur'an, Hadith and Fatwa).

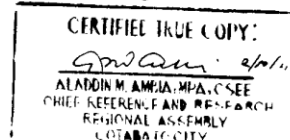
25. **Hijab** - refers to the dress code (not too tight to reveal the contours of the body, the clothing material should not be transparent, and not too attractive to catch the attention of onlookers) required for Muslim women and girls covering the whole body except the face, the hands and feet.

26. **Indigenous People** - refers to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social, and cultural inroads of colonization, non-indigenous religions and culture, become historically differentiated from the majority of Filipinos. They shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural, and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains as defined under the law.

27. **Khilafah** - is an Arabic term for vicegerency which refers to the responsibility of man in serving as Allah's trustee and steward of His creations.

28. **Madrasah** - is an Arabic word for any type of school, secular or religious (of any religion). In common usage, it has been taken to refer to an Islamic religious school.

29. **Mahr** - is an Arabic term which refers to any gift or present which a groom is required to give to the bride. It is a requirement under Islamic law considered as personal right of the bride. The bride's right over the Mahr is imprescriptible and inalienable.



30. **Mahram** - refers to male employee who can serve as an escort and with whom a woman can never marry at any time in her life such as a brother, a father, a son, an uncle or her own husband

31. **Marginalization** - refers to a condition where a whole category of people is excluded from useful and meaningful participation in political, economic, social, and cultural life.

32. **Migrant Workers** - are those who are to be engaged, are engaged, or have been engaged in a remunerated activity in a state of which they are not legal residents, whether documented or undocumented

33. **Moro** - refers to native people who have historically inhabited Mindanao, Palawan, and Sulu, and who are largely of Islamic faith.

34. **Non-Government Organization** - refers to intermediate agency or institution that tend to operate with a full time staff complement and provide a wide range of services and programs and are non-profit.

35. **Parental Authority** - refers to the ensemble of rights and power that the law accords to the father and the mother with respect to the person and the goods of their unemancipated minor children, to the end of their accomplishing the duties of protection, education, and support that are incumbent on them.

36. **Peoples Organization** - refers to grassroots organization, union, community association or primary cooperative that serve as primary group coming together largely on a voluntary basis

37. **Perpetrator** - refers to a person who performs or commits a crime or wrong doing

38. **Polygyny** - refers to a custom of being married to more than one wife at the same time.

39. **Proxy Marriage** - is a marital union that follows after the approval of offer and acceptance to marry between parents and elders of the contracting parties wherein one or both the parties to be married are not present during the marriage ceremony.

40. **Reproductive Health** - refers to a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity in all matters relating to the reproductive system and to its functions and processes

41. **Senior Citizen** - refers to a person sixty (60) years of age and above

42. **Sexual Harassment** - refers to a form of misconduct involving an act or series of unwelcomed sexual advances, requests for sexual favors or other verbal or physical behavior of a sexual nature which is made directly or indirectly.

43. **Shari'ah or Sharia** - refers to the body of Islamic law which serves as the legal framework within which the public and private aspects of life are regulated for those living in a legal system based on Islamic principles and jurisprudence, and for Muslims living outside the

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domain. It deals with many aspects of day-to-day life, including politics, economics, banking, business, contracts, family, sexuality, hygiene and social issues

44. **Social Protection** - refers to policies and programs that seek to reduce poverty and vulnerability to risks and enhance the social status and rights of women, especially the marginalized by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks. Its components are labor market programs, social insurance, social welfare, and social safety nets

45. **Solo Parent** - refers to a any person who fall under the category of a solo parent defined under Republic Act No. 8972, otherwise known as the "Solo Parents Welfare Act of 2000"

46. **Substantive Equality** - refers to the full and equal enjoyment of rights and freedom contemplated under this Act

47. **Sunnah** - refers to the oral traditions relating to the words and deeds of Prophet Mohammad (Peace be Upon Him) and is one of the main sources of Islamic Law (second in authority to the Qur'an). It is also a collection of writings that documented the sayings and actions of the Prophet Mohammad (PBUH)

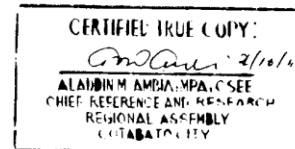
48. **Temporary Special Measure** - refers to a variety of legislative, executive, administrative and regulatory instruments, policies, and practices aimed at accelerating equality of women in specific areas

49. **Urban Poor** - refers to those residing in urban and urbanizable slum or blighted areas, with or without the benefit of security of abode, where the income of the head of the family cannot afford in a sustained manner to provide for the family's basic needs of food, health, education, housing, and other essential amenities in life.

50. **Urology** - refers to the diagnosis and treatment of diseases of the urinary tract and urogenital system.

51. **Violence Against Women** - refers to any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. It shall be understood to encompass physical, sexual, psychological, and economic violence occurring in the family, including battering, sexual abuse of female children in the household, marital rape, and other traditional practices harmful to women, non-spousal violence, and violence related to exploitation, physical, sexual, and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment, and intimidation at work, in educational institutions and elsewhere, trafficking in women and children, and prostitution, and physical, sexual, and psychological violence wherever it occurs.

52. **Voyeurism** - refers to the compulsion to seek sexual gratification by secretly looking at sexual objects or acts.



53. **Waqf** - is an Arabic term which literally means to stop, contain, or to preserve. In Shariah, it refers to a voluntary, permanent, irrevocable dedication of a portion of one's wealth - in cash or kind - to Allah.

54. **Wives in Subsequent Marriages** - refer to those married women whose marriage had been contracted after the first or succeeding marriages of the husband.

55. **Women and Children's Protection Desk** - refers to designated personnel who attend to the needs and concerns of abused women and children lodged at the Philippine National Police (PNP).

56. **Women Empowerment** - refers to the provision, availability, and accessibility of opportunities, services and observance of human rights which enable women to actively participate and contribute to the political, economic, social, and cultural development of the nation as well as those which shall provide them equal access to ownership, management, and control of production, and of material and informational resources and benefits in the family, community, and society.

57. **Women Executives** - refers to women employed in the government and private having administrative or managerial authority occupying third level positions or its equivalent, and elective positions.

58. **Women in the Military and Police Service** - refers to women employed in the Armed Forces of the Philippines and the Philippine National Police, both in the major and technical services, who are performing combat or non-combat functions, providing security to the state, and protecting the people from various forms of threat. It also includes women trainees in all military training institutions.

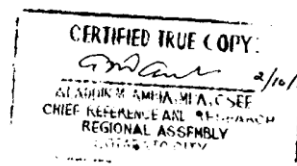
59. **Young Adult** - refers to man or woman regardless of marital status whose age ranges from 18 to 35 years old.

CHAPTER III ROLE OF DEVELOPMENT STAKEHOLDERS

Sec. 5. Role of the Autonomous Regional Government. - The Autonomous Regional Government shall uphold and protect the fundamental rights of men, women, boys and girls including the rights of women to engage in lawful employment, protect women and children especially orphans of tender age from all forms of exploitation, discrimination and violence, and strive to promote the essence of equality and justice.

The promotion of gender and development in the Autonomous Region shall include, but not limited to, the following:

1. Organization and mobilization of awareness campaign on the mainstreaming of gender and development at all levels of government;



2. Increase in the participation of women in social, economic, cultural, political activities at all levels, in decision-making and policy-making endeavors through the implementation of capacity-building programs and projects,

3. Formulation of programs and strategies that shall ensure the dissemination of the Fatwah of the Dar-ul Ifta on reproductive health and family planning,

4. Strengthening of programs which shall provide assistance to women towards self-reliance, expansion of access to opportunities through Islamic financing, grants and waqf (endowment) and ensure equal availment of government and private sector programs and resources; and

5. Encouragement, support and expansion of the participation of grassroots women in the planning, implementation, monitoring and evaluation of development programs and projects.

Sec. 6. Role of the Shari'ah Courts. - The Shari'ah Courts vested with the judicial power created under existing laws shall have jurisdiction over cases specified therein.

The Shari'ah Courts through the Agama Arbitration Councils within the areas of the Autonomous Region shall take direct role to ensure the following

a. The protection of women and children against abuses in the practice of polygyny, unwarranted divorces, violence and discrimination,

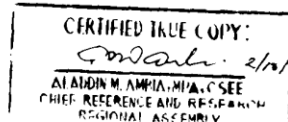
b. The consent of the parties to marriage, especially that of the woman, must be freely given;

c. The parties entering into a contract of marriage, regardless of age, shall undergo a pre-marriage counseling; and

d. The divorcees awarded their support in accordance with the Qur'an and the Code of Muslim Personal Law (PD 1083)

Sec. 7. Role of the Local Government Units (LGUs). - The Local Government Units in the Autonomous Region shall provide political and institutional support to the promotion of gender and development, and increase the participation and access of women to expression and decision-making. They shall undertake plans and strategies for the advancement in information technology in order to facilitate the empowerment and development of women, reduction of the continuous negative projection and degrading images of women in media and in some other forms. The LGUs shall, likewise, initiate actions and strategies to involve the media in effecting changes in the bad perception and demeaning projection of women in their respective areas

The LGUs shall discourage, document and monitor gender issues, and establish data banks on said issues such as early marriages, forced and arranged marriages, proxy marriages, abuses in polygyny practices, maternal/child mortality and morbidity, and the detrimental effects of such practices. They shall engage in programs and activities that would diminish the incidence of discrimination to both men and women as well as their children.



The officials of the LGUs shall exercise their powers, functions and responsibilities, as may be appropriate, for the effective and efficient implementation of the mainstreaming of gender and development in the local plans that shall include, among others, the following:

1. Agricultural and Agrarian Reform;
2. Environment and Natural Resources Management;
3. Education;
4. Infrastructure;
5. Health and Nutrition;
6. Information and Communication Technologies;
7. Housing and Settlement;
8. Special Programs in Conflict-Affected Areas
9. Justice;
10. Enterprise Development ; and
11. Private Sector Development.

Sec. 8. Role of Peoples, Non-Governmental and Civil Society Organizations. - The Autonomous Regional Government and the Local Government Units (LGUs) shall promote the establishment of peoples, non-governmental and civil society organizations to serve as active partners for gender-responsive development

Such organizations that may be established shall carry-out the following:

1. Mobilization of grassroots communities, poor and marginalized peoples, particularly women, to assert and exercise their rights;
2. Monitoring of government and donor policies and practices;
3. Providing of knowledge, research, advocacy and alternative policies;
4. Delivery of services and innovative development programming;
5. Building coalitions and networks for greater civil society coordination and impact;
6. Mobilization of financial and human resources in partnership with funding agencies;
7. Building of stable, viable and autonomous organizations;
8. Organization of disadvantaged sectors and committees toward greater self-reliance and empowerment;
9. Providing support functions and professional services;
10. Providing access to resources (organizations, technical, logistic and managerial);
11. Conduct of advocacy campaign against discrimination of women,



12. Delivery of certain basic services;
13. Conduct of capability-building and livelihood services;
14. Development of local enterprises designed to improve productivity and income;
15. Encouragement of industrialization, and
16. Promotion of ecological balance and enhancement of economic and social well-being of the people.

Sec. 9. Role of the Private Sector. – The Autonomous Regional Government and the Local Government Units (LGUs) in the Region shall create and maintain a favorable business climate in order to reinforce the social benefits of the private sector activities as catalyst for sustainable growth and better living conditions. The participation of the private sector shall be encouraged to drive economic growth, generate income by creating new jobs that may lead to sustained poverty reduction, awareness and advocacy campaigns, widened women's participation in economic activities, and the promotion of religious and culturally-appropriate gender and development programs with the end-goal of achieving protection and promotion of women's rights and empowerment.

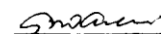
Sec. 10. The Role of the Educational Institutions. - The Autonomous Regional Government through the Department of Education (DepEd), the Commission on Higher Education (CHED) and the Technical and Skills Development Authority (TESDA), the other concerned agencies and proper educational bodies shall monitor the compliance of the regional educational sub-system with the national policies, standards and regulations. The following shall be guaranteed and adopted:

a) **Preservation and Promotion of Culture, Mores, Customs and Traditions.** The culture, mores, customs and traditions of Muslim, Christian and Indigenous peoples which are not discriminatory to women and children shall be preserved, protected and developed.

b) **Strengthening of the Madaris and Public Schools.** The Madaris and public schools in the Autonomous Region shall be strengthened and developed to become the primary vehicles for the preservation, protection and promotion of non-discriminatory cultures, mores, customs and traditions.

c) **Perpetuation of Filipino and Islamic Values.** The regional educational sub-system shall perpetuate Filipino and Islamic values, ideals, aspirations and orientations. It shall develop the total spiritual, intellectual, social, cultural, scientific, and physical aspects of the inhabitants of the Autonomous Region.

d) **Optional Religious Instruction.** Religious instruction in public schools shall be optional, with the written consent of the parents or guardians, and should be taught by the authorities of the religion to which the students belong. The teaching of religion subject must be in accordance with national policies and shall not involve additional costs to the government.

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e) **Inculcation of Patriotism and Nationalism.** To develop, promote and enhance unity in diversity, all schools in the Autonomous Region shall inculcate into the minds of their students the values of patriotism and nationalism, appreciation of the role of national and regional heroes in the historical development of the country and the region, foster love of humanity, as well as respect for human rights and women's rights.

f) **Education Centers.** All state colleges and universities in the Autonomous Region shall serve as regional centers for tertiary and post graduate education in the respective areas of competence.

g) **Tribal University System.** The Autonomous Regional Government through the Regional Assembly shall facilitate the establishment and creation of a tribal university system within the Autonomous Region in order to address the higher educational needs of the indigenous cultural communities in the region.

h) **Madrasah Education.** The Department of Education (DepEd) shall supervise accredited Madaris in the Autonomous Region. The educational policies shall consider the basic teachings from the Qur'an on the respect for the duly constituted authorities. The DepEd shall conduct a periodic review and supervision of the Madaris Educational System. It shall render monthly report to the recipient agencies as provided by law.

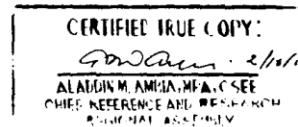
i) **Madrasah Educational System with Arabic as Medium of Instruction.** The Regional Assembly shall enact legislations for the strengthening and development of the Madrasah Educational System in the Autonomous Region. As provided by law, Arabic shall be recognized as a medium of instruction in existing madaris and madaris ulya (schools and other Islamic institutions) which are parts of the regional educational system.

j) **Science and Technology.** The science and technology shall be recognized as essential to national and regional progress and development.

k) **Alternative Learning System.** The Department of Education (DepEd) shall institutionalize the Alternative Learning System. It shall include literacy, numeracy and intensive skills training of the youth and adults, which shall have due recognition of the educational disparities between men and women as reflected in human development indices, as well as the promotion of strategies for the bridging of the identified gaps.

l) **Scholarship Programs.** The Autonomous Regional Government shall provide scholarships to poor but deserving students in all levels and forms of education. It shall appropriate at least fifteen percent (15%) of its regular budget for education to support the regional scholarship program. It shall also take initiatives and activities that will generate additional funds for the scholarship program. In the implementation of the scholarship program, a specific quota shall be provided for the qualified and deserving Moro and Indigenous People (IP) marginalized women and girls.

The scholarship program contemplated herein shall be administered by the Department of Education (DepEd), Commission on Higher Education (CHED) and Technical Education and Skills Development Authority (TESDA).



The educational institutions shall develop gender-sensitive curricula and policies

Sec. 11. Role of the Media. - The Autonomous Regional Government and Local Government Units (LGUs) shall reaffirm their commitment to undertake plans and strategies for the advancement in information technology in order to facilitate the empowerment and development of women, and reduction of the continuous negative and degrading images of women in electronic, print and broadcast media. It shall initiate programs gearing towards the involvement of media in women empowerment and development

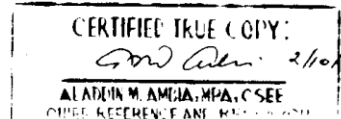
The role of the media in the promotion of gender and development shall include the following:

1. Adoption of mechanisms to increase the participation and access of women to expression and decision-making at all levels including the observance of a gender-balance appointment of women in media's workforce
2. Promotion and portrayal of the various positive role played by women.
3. Adoption and development of codes of conduct, professional guidelines and other self-regulatory policies to remove gender stereotypes and to promote balanced portrayals of women and men.
4. Development of programs that will support women's ability to create access and networking through the use of new information and communication technologies
5. Establishment of programs and policies on changing stereotypical attitudes and behaviors concerning gender roles and responsibilities with the purpose of promoting gender equality as well as positive attitudes and behaviors.
6. Strengthening of gender-awareness campaigns and gender equality training among women and men, girls and boys, to eliminate the persistence of harmful stereotypes

Sec. 12. Role of the Religious Sector. - The Autonomous Regional Government and the Local Government Units (LGUs) shall promote the active participation of the Assembly of the Dar-ul Ifta of the Philippines, Jurisconsult and other recognized religious groups in the rendition of Fatwah on contentious issues, as follows:

1. Gender Justice in the Context of Islam
2. Leadership and Political Rights
3. Gender Equity in Relation to Women's Rights to Inheritance and Economic Rights
4. Early and Arranged Marriages of Persons Below Eighteen (18) Years of Age
5. Forced Marriages and Proxy Marriages
6. Pre-Marriage Counseling as Requirement for Registration of Marriage Contracts
7. Rights to Alimony and Support to Dependent Wife and Children
8. Women's Rights to Pursue and Practice Profession
9. Determination of Appropriate Marrying Age for Men and Women
10. Abuses in the Practice of Polygyny and Their Impact on Women and Children
11. Violence Against Women and Children

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**CHAPTER IV
NON-DISCRIMINATORY AND NON-DEROGATORY
PORTRAYAL OF WOMEN IN MEDIA AND FILM**

Sec. 13. Prohibition of Printing, Publication, Display and Distribution of Pornographic Scenes on Movie/TV Trailers/Shows, Internets, Cellular Phones, Posters, Billboards and Other Similar Literature. - The Autonomous Regional Government and Local Government Units (LGUs) shall exercise vigilance in the unwarranted printing, publication and display of pornographic and sensationalized scenes offensive to human sensitivities

It shall be unlawful for any person, entity, firm or establishment to reproduce or distribute, or cause its reproduction or distribution, pornographic scenes and materials from movies, trailers, shows, billboards, cellphones, internet, video tapes, Compact Discs (CDs), Digital Video Discs (DVDs) and other electronic devices that treat women as sex objects and commodities including derogatory portrayals considered haram and contrary to public morals.

Nude shows or other provocative gestures which further project and exhibit women as sex objects are considered haram.

Any person, agency or establishment that engages in shows depicting women as sex objects in private or public places or under scandalous circumstances shall be liable for violation of women's rights and shall be penalized in accordance with this Code and other applicable laws.

Sec. 14. Anti-Voyeurism. - It shall be considered unlawful for any person to commit the act of voyeurism including the use of all forms of electronic devices which tend to violate the rights of women and men to privacy.

**CHAPTER V
VIOLENCE AGAINST WOMEN AND THEIR CHILDREN**

Sec. 15. Battering, Sexual Harassment, Prostitution and Human Trafficking. - Battering, sexual harassment, prostitution and human trafficking constitute violations of the rights of women and children and shall be considered unlawful or illegal under this Act. Any person, entity or establishment found guilty of committing any of the aforementioned acts shall be prosecuted and penalized in accordance with existing laws.

The Autonomous Regional Government shall provide appropriate services through its concerned agencies to women and children subject of human trafficking. It shall ensure the prosecution and punishment of the traffickers in accordance with applicable existing laws.

The Autonomous Regional Government and the Local Government Units (LGUs) shall undertake intensive and comprehensive policies and programs to counter the prevalence of any violation against women and their children. They shall not in any manner cause the legalization of any form of prostitution. All Local Government Units (LGUs) in the Autonomous Region shall not

issue any permit to individuals, groups or establishments that will tend to establish entertainment facilities allowing, attracting or enticing prostitution or any act preparatory, connected with, or leading to prostitution.

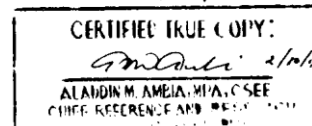
Sec. 16. Comprehensive Support to Survivors of Violence. - All Local Government Units (LGUs) in the Autonomous Region shall provide comprehensive support to survivors of violence irrespective of gender, age, religion, affiliation or ethnicity. Women in Especially Difficult Circumstances (WEDCs) shall be provided with the necessary services and interventions, such as, but not limited, to the following:

1. Temporary and Protective Custody,
2. Medical and Dental Services,
3. Psychological Evaluation,
4. Guidance and Counseling,
5. Psychiatric Evaluation,
6. Legal Services,
7. Productivity Skills Capability Building,
8. Livelihood Assistance,
9. Job Placement,
10. Financial Assistance.

There shall be organized a local Inter-Agency Committees on Anti-Trafficking and Violence Against Women and their Children (IAC-ATVAWC) in all levels to respond to issues and concerns related to violence against women and their children as well as the issues on trafficking. Supportive interventions shall consist of, but not limited to, the following:

- a) Immediate conduct of an intervention by concerned assisting agencies/entities within 24 hours,
- b) Providing counseling and medical services;
- c) Speeding-up evidence-based data for immediate arrest and prosecution of the offenders;
- d) Providing legal services;
- e) Engagement of gender-sensitive and culturally-perceptive investigation officers, examining physicians, social workers, lawyers and other service providers to handle survivors of violence;
- f) Establishment of temporary shelter or crisis intervention units under the management of a licensed and competent Social Welfare Officer of the Department of Social Welfare and Development (DSWD);
- g) Providing support services to trafficking and Violence Against Women and their Children (VAWC) survivors which shall be in accordance with the performance standards for anti-trafficking and anti-VAWC services as mandated by Department of Social Welfare and Development (DSWD), Department of Health (DOH), Department of

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Justice (DOJ), Department of Interior and Local Government (DILG) and Philippine National Police (PNP),

- h) Conduct of orientations on the pertinent provisions of Republic Acts (RAs) 9262, 9208, 8353, 7877, 7610 and other relevant laws and policies on women and children by government offices, Non-Government Organizations (NGOs), private establishments, educational Institutions and religious leaders of all faiths, in coordination with concerned agencies of the government, and
- i) Conduct of in-depth investigations and researches, in coordination with the academe, research institutions and Non-Government Organizations (NGOs) in the Autonomous Region, on the following:
 - 1) gender issues such as early marriages and its impact on men and women,
 - 2) abuses in the practice of polygyny and its effects on Muslim families,
 - 3) forced and arranged marriages and the detrimental effects of such practices,
 - 4) the halaw phenomenon with respect to trafficking of women and children and human rights violations; and
 - 5) the issue on stateless children of Moro ancestry in Sabah, Malaysia.

The researches shall contribute to the local scholarship program and shall serve as part of the bases in advocacy and policy reforms of the Autonomous Regional Government in its combat against trafficking and human rights violations.

The facilities providing necessary interventions to survivors of violence as well as programs directly benefiting the clients shall be legally recognized and encouraged by the Autonomous Regional Government. These facilities will include Crisis Intervention Units (CIUs) and Violence Against Women and their Children (VAWC) Centers by Department of Social Welfare and Development/ Local Government Units (DSWD/LGU), the Women and Children's Protection Desks (WCPD) by Philippine National Police (PNP), Legal Assistance Desk (LAD) by Department of Justice (DOJ) and the Women and Children Protection Units (WCPUs) by Department of Health (DOH).

Relevant programs of partner-agencies which involve the provision of psychosocial services, investigatory services or procedures, medical or hospital-based services, legal prosecution services and other anti-VAW services at the barangay, municipal, city and provincial levels shall be further enhanced, strengthened and supported.

The concerned Local Government Units (LGUs) shall document, monitor and establish data banks on cases of early marriages and abuses against women and their effects.

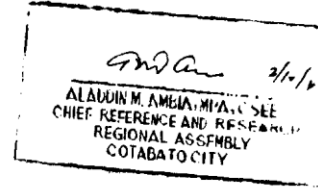
Sec. 17. Women and Children's Protection Desks (WCPDs). - The Autonomous Regional Government through the ARMM Regional Police Office shall establish and maintain Women and Children's Protection Desks (WCPDs) to specifically handle concerns of women and children. They shall be manned by gender-sensitive women police officers. There shall be a separate WCPD area in all police stations to safeguard the confidentiality of information divulged by the victims and to ensure the latter's protection from any harm or danger.

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Sec. 18. Protection of Service Providers in Violence Against Women and their Children (VAWC) and Trafficking Cases. - Service providers assisting Violence Against Women and their Children (VAWC) and trafficking cases shall be accorded protection from imminent threat and danger while in the exercise of their official functions.

Sec. 19. Community-Based Rehabilitation for Perpetrators of Domestic Violence. - There shall be a program using various treatments, approaches and interventions to restore perpetrators' social functioning as an individual and as members of the family and community. Its implementation details shall contain:

- a.) Social Preparation;
- b.) Capability Building;
- c.) Implementation of Rehabilitation Strategies;
- d.) Monitoring;
- e.) Documentation and Reporting; and
- f.) Evaluation.



CHAPTER VI POLITICAL RIGHTS OF WOMEN

Sec. 20. Equal Rights of Women and Men in Political and Public Sphere. - The Autonomous Regional Government shall undertake special measures to accelerate the participation of women in all spheres of society particularly in the decision-making and policy-making processes in government and in private entities in order for them to satisfy their role as khalifah or vicegerents of God.

Sec. 21. Appointment of Mahram of Women Executives. - The women executives of the Autonomous Region shall be entitled to a mahram.

Sec. 22. Women's Involvement and Representation in Regional and Local Special Bodies. - The Autonomous Regional Government shall institute affirmative action mechanisms so that women can participate in the formulation, implementation and evaluation of policies, plans, and programs for regional and local developments, such as the following:

- a) Development Councils and Planning Bodies. As far as practicable, forty percent (40%) of the membership of all development councils from the regional, provincial, municipal down to barangay levels shall be composed of women;
- b) Other Policy and Decision-Making Bodies. Women's groups shall also be represented in international, national and local decision-making or special bodies, peace negotiating panel; and
- c) Private Sector. The Autonomous Regional Government shall adopt measures to encourage women leadership in the private sector.

Sec. 23. Celebration of Special Events. - The Autonomous Regional Government shall promote the observance of the celebration of special events relative to the promotion and protection

of women and children's rights, such as, but not limited to, the following: a) Declaration of the month of March as Women's Month; b) Every March 8 as International Women's Day; c) Every March 18 as Bangsamoro Women's Day; d) Last week of September as Family Week; e) Month of October as National Children's Month; and f) November 25-December 12 as 18-Day Campaign on Violence Against Women. The conduct of critical consciousness raising activities relevant to the events by the line agencies of the Autonomous Region in Muslim Mindanao (ARMM) and the Local Government Units (LGUs) shall also be encouraged.

A report on the implementation of this Act shall be presented during these events.

CHAPTER VII CULTURAL IDENTITY OF WOMEN

Sec. 24. Preservation of Cultural Identity. - The beliefs, customs and traditions of the people in the Autonomous Region and the free exercise of their respective faiths are hereby recognized, protected and guaranteed.

The Regional Assembly shall adopt measures to ensure mutual respect and protection of the cultural identity of the people in the area of autonomy.

The Autonomous Regional Government shall adopt policies and measures to ensure the continued preservation and promotion of traditions, culture and literatures.

Sec. 25. Wearing of Hijab Among Muslim Women. - The public and private institutions such as schools, hospitals, offices and other institutions within the Autonomous Region shall respect and allow Muslim women to wear hijab.

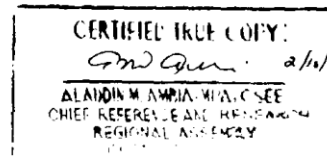
CHAPTER VIII INDIGENOUS WOMEN AND CHILDREN

Sec. 26. Recognition of Rights. - The Autonomous Regional Government recognizes and promotes the rights of indigenous women and children as embodied in the international laws, United Nation (UN) Declarations, Philippine Constitution and existing special laws.

Sec. 27. Equal Rights and Opportunities. - The indigenous women shall enjoy equal rights and opportunities with men in the social, economic, political and cultural spheres of the society. The participation of indigenous women in the decision-making processes as well as in the development of the society shall be promoted, respected and recognized.

Sec. 28. Access to Basic Services. - The Autonomous Regional Government shall provide full access to education, maternal and child care, health and nutrition and other basic services to indigenous women and children.

Technical, professional and other forms of training shall be provided to enable the concerned women to fully participate in all aspects of social life.



Sec. 29. Youth and Children. - The Autonomous Regional Government shall recognize the vital role of indigenous youth and children in region-building. It shall promote and protect their physical, moral, spiritual, intellectual and social well-being by providing programs and projects for the development of indigenous youth and children.

Sec. 30. Protection of Indigenous Culture, Traditions and Institutions - The Autonomous Regional Government shall respect, recognize and protect the rights of the indigenous cultural communities to preserve and protect their culture, traditions and institutions. Provided, this does not discriminate against women and children and provided further, this does not violate existing national laws. It shall also consider these rights in the formulation and application of regional plans and policies.

Sec. 31. Promotion and Marketing of Indigenous People (IP) Cultural Products. - The Autonomous Regional Government shall provide support services in the promotion and marketing of Indigenous People (IP) cultural products.

Sec. 32. Integration of Indigenous People Culture and Traditions in the ARMM Educational Curriculum. - The Department of Education (DepEd) and Commission on Higher Education (CHED) in coordination with the Office for Southern Cultural Communities (OSCC) shall cause the preparation of appropriate monographs and materials for the integration of indigenous people culture and traditions in the Autonomous Region in Muslim Mindanao (ARMM) educational curriculum.

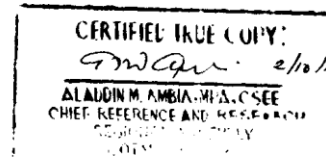
The DepEd and CHED shall pursue the institutionalization and full implementation of the integration in the areas of indigenous communities.

CHAPTER IX MARRIAGE AND FAMILY RELATIONS

Sec. 33. Marriage and Family Relations - Marriages and family relations, including property relations, succession and settlement of estate of deceased person shall be governed by the Shari'ah, Code of Muslim Personal Laws (PD 1083), New Family Code, in suppletory character, and this Code.

Sec. 34. Solemnization of Marriage. - Notwithstanding the applicable provisions of the Code of Muslim Personal Laws of the Philippines, it shall be the duty of the solemnizing officer or wali to obtain and publicly declare the consent of the woman to the marriage. However, should the woman, for valid reason, refuse to give her consent, the solemnizing officer shall not solemnize the marriage.

Sec. 35. Pre-Nuptial Agreement. A pre-nuptial agreement shall be considered part of the marriage settlement of the contracting parties only when it is in accordance with Islamic Law. It must be in writing and attached to the certificate of marriage, and duly registered with the Shari'ah Registry Office.



Sec. 36. Advocacy Discouraging Child Marriages. - Child or early marriages shall be discouraged. The Autonomous Region in Muslim Mindanao (ARMM) agencies, non-government and civil society organizations shall conduct strong advocacy campaign against child or early marriages.

Sec. 37. Pre-Marriage Counseling. - Individuals seeking to enter into a contract of marriage shall undergo pre-marriage counseling. The Department of Social Welfare and Development (DSWD) and all Local Government Units (LGUs) shall establish a pre-marriage counseling desk and conduct pre-marriage counseling seminar to would-be couples. They shall also issue a pre-marriage counseling certificate as a requirement for the solemnization of marriage. For this purpose, the Local Government Units (LGUs) shall employ a competent Muslim religious leader to discuss about marriage in Islamic perspective during the seminar. The concerned agencies or offices shall develop a pre-marriage counseling module in the context of Islam to serve as one of the references of discussions in the seminar.

Sec. 38. Divorce. - Divorce shall be valid and effective only after the exhaustion of all possible means of reconciliation as provided in the Holy Qur'an and pursuant to the provisions of PD 1083, and upon judicial confirmation or issuance of decree of divorce, or confirmation by a competent Aleem or Imam in case of extra-judicial divorces which confirmation shall be recognized by the Shariah Court.

Sec. 39. Financial Support. - Any divorced woman shall be entitled to financial support as provided for by the Code of Muslim Personal Laws (PD 1083). The support herein provided shall be based on the means of the divorced husband. Children of divorced parents shall continuously be given support.

Sec. 40. Subsequent Marriages. - Notwithstanding the rule on polygamy, no Muslim man shall be allowed to contract subsequent marriage unless the following requirements are complied with to the satisfaction of the court: a) physical and economic capability of the man; b) capability of the husband to equal treatment; c) the subsequent marriage must be under exceptional circumstances; and d) the contracting parties of the subsequent marriage should have undergone pre-marriage counseling.

Section 41. Protection of Wives in Subsequent Marriages. No wife shall be deprived of the benefits due her and her children upon death or retirement of her husband.

Section 42. Marriages and Family Relations of Non-Muslims. Marriages and family relations of non-Muslims shall be governed by existing laws.

Section 43. Mixed Marriages. Marriages between Muslims and non-Muslims shall be governed by the law under which the marriage is celebrated.

CHAPTER X
HEALTH CARE SERVICES

Sec. 44. Community-Based Primary Health Care Service. The Autonomous Regional Government shall provide, at all times, an equitable, accessible and community-based

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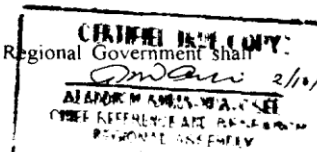
comprehensive primary health care services. These health programs and services shall be culture-sensitive and gender-responsive covering all stages of human's life cycle. The programs shall also address the major causes of mortality and morbidity among men and women of all ages including that of the unborn child. The provision of comprehensive health services must be parallel to the Islamic beliefs and cultural practices which are non-discriminatory to women. The rights of the spouses to establish a family in accordance with their personal convictions and demands of responsible parenthood, as well as the rights of women to protection from hazardous practices, drugs, devices, interventions and substances, shall be thereto respected.

The community-based primary health care services shall consist of, but not limited to, the following:

1. Maternal care to include pre and post natal care and infant health and nutrition,
2. Birthing facilities to assure facility-based delivery by a professional and skilled birth attendant;
3. Responsible parenthood education and access to family planning programs and services for couples;
4. Promotion of exclusive breastfeeding to infants from 0 to 6 months and complementary feeding to infants 6 months onwards;
5. Youth sexuality education without prejudice to the primary right and duty of parents to educate their children,
6. Prevention and management of Reproductive Tract Infection (RTI), including Sexually Transmitted Infections (STIs), Human Immuno-Deficiency Virus (HIV) and Acquired Immune - Deficiency Syndrome (AIDS),
7. Prevention and management of reproductive tract cancers like breast, cervical, and other gynecological disorders,
8. Prevention and management of abortion and its complications,
9. Prevention and management of infertility and sexual dysfunction pursuant to ethical and Islamic norms, and medical standards,
10. Care for elderly women including elderly men and persons with disabilities, and
11. Management and treatment of mental health problems of women, men, boys and girls; and
12. Prevention, treatment and management of contagious and emerging diseases such as dengue fever, AH1N1, flu virus, Severe Acute Respiratory Syndrome (SARS), bird flu, meningococemia and similar others

Sec. 45. Reproductive Health Services - The Autonomous Regional

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ensure the availability and accessibility of methods, techniques and services that contribute to reproductive health and individual's well-being. The elements of reproductive health care shall include the following

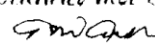
- a) Islam and Reproductive Health;
- b) Islam and Birth Spacing.
- c) Maternal and Child Health and Nutrition;
- d) Prevention of Abortion;
- e) Prevention of Violence Against Women and Children (VAWC);
- f) Men's Reproductive Health and their Involvement;
- g) Adolescent Reproductive Health (ARH);
- h) Reproductive Tract Infections (RTIs), Sexually Transmitted Infections (STIs), Human Immuno-Deficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS);
- i) Infertility; and
- j) Post Reproductive Health and Other Reproductive Health Concerns

Sec. 46. Health Care Financing Mechanisms - The Autonomous Regional Government shall set-up appropriate health care financing mechanisms through health insurance coverage. It shall enter into agreement with the provincial and municipal governments, Philippine Health Insurance Corporation (PhilHealth) and its Department of Health (DOH) for the enrollment of indigents especially women and children to any available health care packages such as hospitalization, maternal and child care, TB and other contagious diseases treatment packages.

Sec. 47. Access to Family Planning Management. - The Autonomous Regional Government shall ensure access to responsible, ethical, legal, safe and effective family planning methods that are consistent with Islamic principles.

Sec. 48. Contraceptive Self-Reliance Program. - The Autonomous Regional Government shall guarantee the implementation of the contraceptive self-reliance program by the Local Government Units (LGUs) in their respective areas in order to ensure the availability and affordability of family planning services and methodologies.

Sec. 49. Partnership in Family Planning Services - The Autonomous Regional Government shall encourage and promote partnership on family planning and reproductive health program implementation with other stakeholders such as the academe, Local Government Units (LGUs), Muslim Religious Leaders (MRLs), Civil Society Organizations (CSOs), Non-Government Organizations (NGOs), Peoples Organizations (POs) and private sector.

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Sec. 50. Institutionalization of the Fatwa on Family Planning and Reproductive Health - The Autonomous Regional Government shall encourage the inclusion of fatwa on family planning and reproductive health issued by the Assembly of the Darul Ifta in health programs

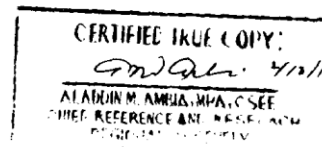
Sec. 51. Mobile Health Care Delivery Services. - There shall be a mobile health care delivery service through a mobile health clinic in the municipalities of the Autonomous Region for their constituents particularly to the indigents. To effectively carry out this program, each municipality in the mainland shall be provided with a van and motorized boat for the island municipality to promptly attend to the needing patients. The operation and maintenance of the mobile health clinics shall be funded under the Priority Development Assistance Fund (PDAF). The Department of Health (DOH), in coordination with the Integrated Provincial Health Offices (IPHOs), shall provide the human resource requirement of the program. The concerned Local Government Units (LGUs) shall be responsible for the maintenance and sustainability of the program in their respective jurisdictions.

Sec. 52. Conduct of Maternal and Neonatal Mortality and Morbidity Review - All Local Government Units (LGUs) shall be enjoined to formulate their respective ordinances for the regular reporting of maternal and neonatal mortality and morbidity indices. Annual maternal and infant death review shall be conducted which shall be attended by the concerned agencies such as Department of Health (DOH), Population Commission (POPCOM), Department of Social Welfare and Development (DSWD), Department of Interior and Local Government (DILG), National Statistics Office (NSO), National Commission on Indigenous Peoples (NCIP), Barangay Local Government Units (BLGUs), Municipal Local Government Units (MLGUs), and provincial governments with the purpose of formulating plans, programs and projects to immediately decrease maternal and infant mortality and morbidity.

Sec. 53. Leave Benefits. - In addition to those provided under existing laws, any employee who have rendered continuous aggregate employment service of at least six (6) months for the last twelve (12) months shall be entitled to a special leave benefit of fifteen (15) days for the treatment of gynecological problem for women and urological for men. Employees undergoing gynecological, urological or prostatic gland procedures shall be entitled to two (2) months leave with full pay.

Sec. 54. Comprehensive Community-Based Primary Health Care Information and Education Campaign. - The Autonomous Regional Government shall provide women in the Region appropriate, complete, accurate and community-based information and education on all aspects of women's health especially those on the most vulnerable ages giving more emphasis on family planning, reproductive health, maternal and child health, and nutrition.

Sec. 55. Establishment of Women and Children Protection Units in All Hospitals in ARMM. - In cases of violence against women and children, victims and survivors of conflict-afflicted areas shall be provided with comprehensive health services that include psychosocial, medical and legal interventions. There shall be Women and Children Protection Units (WCPUs) in all hospitals in Autonomous Region in Muslim Mindanao (ARMM) to immediately respond to the needs of women and children.



**CHAPTER XI
EDUCATIONAL SERVICES**

Sec. 56. Provision of Quality Education. - The Autonomous Regional Government shall establish, maintain and support, as top priority, a complete and integrated system of quality education. It shall adopt an educational framework that is meaningful, relevant and responsive to the needs, ideals and aspirations of the people in the Autonomous Region.

All schools, colleges and universities in the Autonomous Region, including such other schools and institutions that may be established thereat, shall be deemed integral components of the regional educational system. The Autonomous Regional Government shall ensure accessibility of children, adolescents and young adults to quality education.

The Autonomous Regional Government shall adopt the following:

- (1) Recognition of the participation of private institutions and Madaris in providing quality education to the people in the Autonomous Region;
- (2) Adherence to basic national structure of education in accordance with existing governing laws;
- (3) Promotion and use of gender sensitive language and removal of sexist words and contexts in school textbooks and materials; and
- (4) Incorporation of Islamic values in social studies subjects or their equivalents in appropriate grade levels as well as in the secondary and tertiary levels of education.

Sec. 57. Distance Learning Program. - The Department of Education (DepEd) shall institutionalize and encourage distance learning program both in elementary and secondary levels in the remote communities of the Autonomous Region.

Sec. 58. Health and Nutrition Development Program in Curriculum. - The educational institutions shall incorporate in their respective curricula offerings and course syllabi the women, adolescent, and youth health and nutrition development program.

Sec. 59. Mechanism for Monitoring Educational Materials. - The Department of Education (DepEd) and Commission on Higher Education (CHED) in partnership with other educational institutions in the Autonomous Region shall develop, formulate and provide effective mechanisms for monitoring and reporting of educational materials that stereotype and discriminate women and men.

Sec. 60. Scholarship Programs. - Educational institutions through their respective extension service programs shall forge partnership with Department of Education (DepEd), Commission on Higher Education (CHED), Technical and Skills Development Authority (TESDA), National Commission on Muslim Filipinos (NCMF) and other stakeholders for the provision of scholarship grants especially for technical education and livelihood skills development training for women and out of school youths.

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**CHAPTER XII
SOCIO-ECONOMIC CONCERNS**

Sec. 61. Equal Access to Employment and Promotion - The Autonomous Regional Government shall ensure equal employment opportunities and meritorious promotion to all labor force of the Autonomous Region regardless of sex, organization, tribe, religious beliefs or political affiliations.

Sec. 62. Employment of Children. - No child below fifteen (15) years of age shall be employed except when he or she works under the direct supervision of his or her parents or guardian subject to the conditions and requirements prescribed by the Labor Code of the Philippines.

Sec. 63. Salaries, Wages and Financial Benefits - Salaries, wages or financial benefits of employees shall be given in the form of money or valid check. No employer shall be allowed to pay by means of notes, bonds, vouchers, coupons, tokens, tickets, chits or any similar objects, even when expressly requested by the employee.

Every employer shall comply with the minimum wage set by the Regional Wages and Productivity Board (RWPB) of the Autonomous Region. In the same manner, all employers shall be required to grant benefits to all workers such as, but not limited to, maternity or paternity leave, sick leave, vacation leave, medical services and other similar services, subject to the limitations provided under the applicable laws.

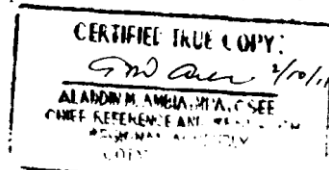
Sec. 64. Facilities for Women in Buildings and Other Infrastructures. - The Autonomous Regional Government shall establish policy standards for health and occupational safety that will ensure the security, safety and health of men or women workers of the private sector in the Autonomous Region.

Sec. 65. Insurance of Occupational Safety and Health Standards - The Autonomous Regional Government shall set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces. It shall institute comprehensive programs to ensure safe and healthful working conditions in all places of work.

*** **Sec. 66. Technical, Livelihood and Employment Assistance Program.** - The Autonomous Regional Government shall formulate strategic and responsive policies and programs that will ensure and facilitate the provisions of technical, livelihood and employment assistance to women workers.

Sec. 67. Human Resource Development Program. - The Autonomous Regional Government shall establish a policy for sustainable human resource development program in order to produce locally and globally competitive manpower.

Sec. 68. Prohibition of Discrimination on the Basis of Gender - It shall be unlawful for any employer to discriminate any woman employee with respect to terms and conditions of employment solely on account of her sex or gender.



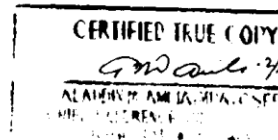
Sec. 69. Prohibited Acts. - It shall be unlawful for any employer to terminate a woman worker on the account of her pregnancy, or while on leave or in confinement due to her pregnancy, or to discharge or refuse the admission of a woman worker upon returning to her work for fear that she may again be pregnant. Any officer, supervisor, head or authorized employee who commits such unlawful act shall be solidarily liable for damages with the organization, corporation, establishment or business entity where the woman is working.

Sec. 70. Grievance Machinery on Sexual Harassment. - The Autonomous Regional Government shall institute stable and functional grievance machinery on sexual harassment in every government or private establishment for the speedy and proper redress of sexual harassment cases in workplaces.

Sec. 71. Women in Agriculture and Fishery. - The Autonomous Regional Government shall formulate strategic and responsive policies and programs that will ameliorate the general welfare of women in the agricultural and fishery industries and shall ensure the full protection and promotion of their rights and privileges.

Sec. 72. Social Services for Household Service Workers. - The Autonomous Regional Government shall formulate appropriate policies, strategies and programs that will ensure the provision of social services for household service workers to protect and promote their social rights and privileges out of their employment.

**CHAPTER XIII
SPECIAL SECTORAL CONCERNS**



Sec. 73. Rights of Differently-Abled Persons. - The Autonomous Regional Government shall establish a special school in every municipality for the differently-abled persons. It shall pursue measures and support services that will promote and protect the rights of the differently-abled persons in the Autonomous Region.

The Department of Social Welfare and Development (DSWD), in coordination with the concerned regional line agencies, shall spearhead the implementation of supportive interventions that will advance the interest of differently-abled persons for them to become productive partners to development. These supportive interventions shall consist of, but not limited to, the following:

- a) Special education school for differently-abled persons which shall offer appropriate technology curricula;
- b) Creative employment opportunities for differently-abled persons recognizing their differentiated conditions and full potentials as human beings;
- c) Creation of committee on differently-abled persons under the provincial, municipal and city development councils to advance their interest;
- d) Medical missions and sports development activities for differently-abled persons;
- e) Regular monitoring and reporting of cases of harassment committed against

(ARMM) Solo parents shall have the privilege to avail of the solo parent leave subject to Civil Service Rules and Law.

Sec. 81. Assistance to Individuals in Need of Special Protection. - The Local Government Units (LGUs) shall provide necessary assistance to individuals in need of special protection such as those mentally ill, substance dependents, alcoholic, rehabilitated hansenites and released prisoners.

CHAPTER XIV WOMEN AND CHILDREN IN ARMED CONFLICT

Sec. 82. Protection of Women and Children Affected by Armed Conflict. - The Autonomous Regional Government shall ensure the protection and security of women, elderly and children in situations of armed conflict and militarization. It shall provide gender-responsive humanitarian assistance to meet the needs of the affected internally displaced persons

The Autonomous Regional Government shall prohibit the recruitment of youth and children in the armed forces, revolutionary groups and their involvement in the conflict whether as couriers, spies, and others.

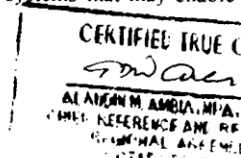
Sec. 83. Psychosocial Support for Women. - The Autonomous Regional Government shall establish mental health and psychosocial support team that will cater to the needs of women experiencing critical incidents such as armed conflict and natural disasters. Psychosocial sessions shall be initiated and spearheaded by the Department of Health (DOH) and Department of Social Welfare and Development (DSWD) in partnership with trained debriefers coming from Non-Government Organizations (NGOs) within the Autonomous Region in Muslim Mindanao (ARMM).

Early recovery plan shall be implemented in conflict affected communities. The Department of Health (DOH) shall submit on a regular basis a post debriefing report to the Office of the Regional Governor (ORG) to determine indicators of program implementation.

Sec. 84. Post-Conflict Rehabilitation. - The Autonomous Regional Government shall ensure that women's and children's needs are properly addressed and prioritized during post conflict rehabilitation. It shall provide programs, projects and support systems that may enable women to speedily recover from debilitating effects of the conflict

CHAPTER XV ENVIRONMENTAL CONCERNS

Sec. 85. Women's Participation in the Implementation of Programs and Projects on Environment and Natural Resources (ENR) Management - The Autonomous Regional Government shall encourage the participation of women in the implementation of programs and projects pertaining to Environment and Natural Resources (ENR) management. It shall inculcate the principles of Al-Khilafah (stewardship) and Al-Amanah (trust) in the management of the environment and natural resources. It shall likewise recognize the active role of women in the



conservation, protection, constructive utilization, management and development of environment and natural resources especially on the following:

- a) **Watershed Management.** The women's role in promoting effective watershed management shall be recognized. The Autonomous Regional Government, in partnership with Local Government Units (LGUs) and local communities, shall ensure sustainable and continuous supply of water for domestic, irrigation, power, industrial and commercial use.
- b) **Protection of Environment and Natural Resources (ENR) as Priority Concern.** The protection of Environment and Natural Resources (ENR) especially in protected areas as enumerated and described under the National Integrated Protected Areas System (NIPAS) Law (RA No. 7586) and other pertinent laws shall be given priority concern to ensure moral accountability, social responsibility, environmental stability, enhanced biodiversity and increased productivity.
- c) **Community-Based Environment National Resources (ENR) Interventions.** The active participation of women shall be encouraged in promoting equal rights to access and responsibilities that are vested upon local communities of the Region to promote sustainable management and development of natural resources.

CHAPTER XVI GENDER MAINSTREAMING

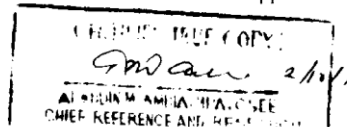
Sec. 86. Gender and Development Advocacy. - The Autonomous Regional Government and the Local Government Units (LGUs) shall formulate gender and development advocacy plan to encourage all duty bearers to affirm the role of women in regional autonomy. They shall ensure espousal of gender and development principles and objectives, as well as mobilization of advocacy activities to widen the participation and empowerment of indigenous and Muslim women.

Sec. 87. Mainstreaming of Gender and Development (GAD) in Local Government Units - All Local Governments Units (LGUs) within the Autonomous Region shall operationalize the principles and policies provided under this Code.

Sec. 88. Gender Sensitivity Orientation and Training. - The Autonomous Regional Government and the Local Governments Units (LGUs) shall cause the conduct of Islamic gender-sensitivity orientation and training for their employees, stakeholders and other duty bearers.

Sec. 89. Preparation of Annual Gender and Development (GAD) Plan and Budget. - The Autonomous Regional Government and the Local Governments Units (LGUs) shall annually formulate their respective Gender and Development (GAD) plans and budget, and shall submit the same along with their accomplishment reports to the Office of the Regional Governor (ORG) through the Regional Commission on Bangsamoro Women (RCBW) and concerned recipient agencies.

Sec. 90. Utilization of the Five (5) Percent Gender and Development (GAD) Funds and Budget. - In line with the requirements set by RA 7192 for 5% fund allocation to support



Gender and Development (GAD) concerns, the Autonomous Regional Government and the Local Governments Units (LGUs) shall strictly implement their respective GAD plans and budgets. With said apportionment, they shall address gender inequality issues and support programs and projects for women.

The Regional Commission on Bangsamoro Women (RCBW), in partnership with the Department of the Interior and Local Government (DILG), Commission on Audit (COA) and Commission on Human Rights (CHR), shall be tasked to monitor the implementation and utilization of GAD plans and budget in the different Local Governments Units (LGUs)

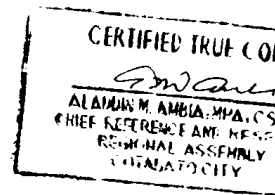
Sec. 91. Establishment of Gender-Sensitive Management Information Database.- The Autonomous Regional Government and the Local Governments Units (LGUs) shall institutionalize the establishment of gender-sensitive management information database which will serve as repository of data. The data that may be gathered shall be accessible to local planners in pursuit of development.

Sec. 92. Mainstreaming of Gender and Development (GAD) Programs in the Local Development Plans. - The Autonomous Regional Government shall formulate policies and programs directing the Local Governments Units (LGUs) to strategically incorporate Gender and Development (GAD) programs in their year-round local development plans and activities.

The Local Governments Units (LGUs) shall exercise such powers, functions and responsibilities that are appropriate for the effective and efficient implementation of Gender and Development (GAD) mainstreaming plan and budget.

The mainstreaming of GAD in the local plans shall include the following

1. Agriculture and Agrarian Reform;
2. Environment and Natural Resources Management;
3. Education;
4. Infrastructure;
5. Health;
6. Information and Communication Technologies;
7. Housing and Settlement;
8. Women in Conflict Affected & Conflict Vulnerable Areas;
9. Justice;
10. Enterprise Development; and
11. Private Sector Development.



Sec. 93. Regional Commission on Bangsamoro Women (RCBW). – The Regional Commission on Bangsamoro Women (RCBW) shall be the primary policy making and coordinating body for women and gender equality concerns in the Autonomous Region in Muslim Mindanao (ARMM). It shall facilitate the monitoring of the effective implementation of this Code, collect and consolidate reports and make recommendations thereon.

In addition to its existing duties and functions, the Regional Commission on Bangsamoro Women (RCBW) shall also perform the following:

1. Coordinate with law enforcement agencies to:

a. Prohibit, seize and confiscate all materials that violate existing laws and moral precepts including materials used or produced out of voyeurism;

b. Prohibit the printing, publication or distribution of pornographic scenes and materials from movies, trailers, shows, posters, billboards, tarpaulin, literature and other visual materials that treat women as sex objects which are considered haram and contrary to public morals; and

c. Prohibit the exhibition of materials, movies, print, broadcast and multimedia that degrade women and violate their rights

2. Coordinate with concerned agencies for the provision of free legal assistance, security and protection of Violence Against Women and Children (VAWC) survivors, trafficking and other forms of violence, and recommend actions thereof.

3. Serve as the repository of data on gender and development for public use.

To effectively and efficiently perform its functions, the Regional Commission on Bangsamoro Women (RCBW) may revise its existing structure and staffing pattern.

CHAPTER XVII PENAL PROVISIONS

Sec. 94. Penalties. - Any violation of this Code shall be dealt with in accordance with existing laws, rules and regulations

CHAPTER XVIII FINAL PROVISIONS

CERTIFIED TRUE COPY:
ALAM DIN M. AMBIA, MPAC SEE
CHIEF REFEREE AND CLERK
REGIONAL ASSEMBLY
COTABATO

Sec. 95. Implementing Rules and Regulations. - Within One Hundred Eighty (180) days following the effectivity of this Code, the Regional Sub-Committee on Gender and Development (RSCGAD) and in consultation with the concerned regional line agencies and LGUs shall have completed the formulation of the implementing rules and regulations necessary for the effective implementation of this Code.

Sec. 96. Compliance Report. - Within six (6) months from the effectivity of this Code and every six (6) months thereafter, the Regional Commission on Bangsamoro Women (RCBW), in coordination with regional line agencies, shall submit to the Office of the Regional Governor (ORG) through the Regional Sub-Committee on Gender and Development (RSCGAD) regular reports on the progress of the implementation of this Code highlighting thereof the impact on the status of women. The report shall include an assessment of the effectiveness of this Code.

Sec. 97. Appropriations. - The Autonomous Regional Government shall appropriate necessary funds for the effective implementation of this Code. The regional line agencies shall allocate at least five percent (5%) of their total budget to GAD and for the implementation of the provisions of this Code.

Sec. 98. Suppletory Clause. - On matters not provided for in this Code, any existing applicable laws, executive orders, rules and regulations shall apply in supplemental manner.

Sec. 99. Separability Clause. - Should any section, provision, part or portion of this Code be declared unconstitutional or invalid by competent court, the other sections, provisions, parts or portions not affected thereby shall remain valid and in full force and effect.

Sec. 100. Repealing Clause. - All laws, proclamations, executive orders, rules and regulations inconsistent with this Code are hereby repealed, amended or modified accordingly.

Sec. 101. Effectivity Clause. - This Code shall take effect after five (5) days following the completion of its publication in any newspaper of regional circulation.

APPROVED.



DATU ROONIE Q. SINSUAT
Speaker

This Act was passed by the Regional Assembly on December 6, 2010.

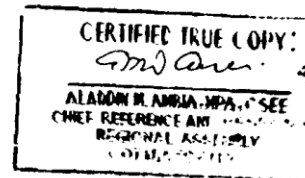


DATU MAMA M. AMPATUAN, Al Haj
Secretary-General

APPROVED:



ANSARUDDIN A. ADIONG
Acting Regional Governor
Date: Jan 31, 2011



Appendix 2

CONFERENCE ON GENDER ISSUES IN THE CONTEXT OF ISLAM
Workshop Issues and Recommendations

Issue	Why Strategic	Consequence If Not Addressed
A. MARRIAGE AND FAMILY ISSUES 1. POLYGAMY Malpractice of polygamy among Muslim Men	Ignorance on Islamic Principles	Subject to abuse prejudicial to the wives
2. DIVORCE On divorce, men are not required to cite grounds/reason for divorcing their wives (which is not true in the case of the women who want to divorce their husband) Absence of detailed process in the implementation of divorce	There is no equality here and is subject to abuse by the men	If addressed, this will protect the welfare/interest of the women
Divorce can initiate or make by woman, however, if they have strong merits to prove on why they push a "talaq" (divorce). Chance is little to achieve that the court will favor the petition Divorce		It will just go on and on and the problem will never be solved
3. SEX EDUCATION Significance of Sex Education	Unawareness of sex education in common is unuttered family. More Sex trafficking, prostitution and moral bankruptcy is encouraged	All privilege to divorce is for men This will be taken lightly by men and women and it will just accept the decision
Lack of orientation about sex education, illiteracy of parents and lack of access to concern institution 4. EARLY MARRIAGE Early marriage early pregnancies 5. FORCED MARRIAGE Forced marriages	It affects the reproductive health of the younger women	Causes death to young women
		Because of economic crises and lack of Islamic knowledge on marriage in Islam, and code of Muslim personal laws, human right violation (emotional distress) and broken marriage.

Issue	Why Strategic	Consequence If Not Addressed
6. MARRIAGE Ignorance/lack of knowledge in Islam on marriage and family welfare Support program for implementation of marriage counseling	Misconception of Islam It is important to educate bride and groom on their respective responsibilities and roles and functions in the family and society as a whole Note practice of Muslim men trafficking their wives	Violation of divine revelations Unplanned family size lead to population growth This has to be stopped. More Muslim men will do it
Jobless men marrying for economic reason relying on the income of the wives		
7. IGNORANCE/LACK OF KNOWLEDGE OF RIGHTS Right of Muslim women Ignorance of human/women's rights Equality of men and women regarding rights	Women don't know their rights Because it lead to misunderstanding especially in Islamic value People believe say that women has less rights speaking of privilege	Muslim women will continue suffer Continuity of the women rights violations It will not be addressed properly misconceptions will prevail

A.1 RECOMMENDATIONS

KEY CHANGE	EXISTING RESOURCES	ACTION RECOMMENDED TO ACHIEVE CHANGE		
		LGUs	RG	ISG
<p>On the issues of:</p> <ol style="list-style-type: none"> 1. polygamy 2. divorce 3. early & forced marriage <ul style="list-style-type: none"> • observance of islamic principles • enhance policy environment 	<ul style="list-style-type: none"> • qur'an, sunnah, hadith • ulamas, khutba, nni • academic experts • darul iflah • islamic centers • shariah courts <p>funding support from unfpa, afgfund, aeci, gem, usaid, lgsipa</p>	<ul style="list-style-type: none"> • enforce marriage counseling 	<p>NGAs/CSOs/ACAD</p> <p>EME</p> <p>IEC</p> <ul style="list-style-type: none"> • localize cumpul (ria) • create committee for advocacy on islamic principles • intensify iec to all stakeholders • more education on sexuality education, marriage and divorce 	<p>MRLs</p> <p>IEC</p> <p>Sustained support from international support groups</p>

B. ECONOMIC EMPOWERMENT AND PROPERTY RIGHTS

Issue	Why Strategic	Consequence If Not Addressed
1. DISCRIMINATION		
Discrimination by some employer to Muslim in job hiring	Ethnic/Racial discrimination	violation of equal employment opportunities
Discrimination; no diversity in a workplace	Lack of job opportunity	Low self-esteem among women
2. ECONOMIC RIGHTS OF WOMEN		
Though women have economic rights, they don't assert their rights		It hampers their opportunity for self-development and empowerment
Advocacy on economic rights of women	Muslim women today still seek permission from their husband before any business transaction.	Promote self-sufficiency, self-reliant of women
CMPL requires wife obtain husband's permission before she can work (out of the house) but wife's permission is not required	Very limited copies on CMPL and it is not being popularized to Muslim Communities	Resulting to less awareness among Muslim men and women on its provisions.
CMPL does not allow the wife to accept gift but there is no such prohibition for the husband.		
Divorce		All privilege to divorce is for men This will be taken lightly by men and women and it will just accept the decision
3. PROPERTY AND INHERITANCE		
Importance of property		Awareness of members of community
	Conflicts between rightful heirs	Deprivation of rights to just share
4. HALAL		
Creating halal industry in ARMM and in the Philippines in general	Promote halal foods	Provide job opportunities and economic development

B.1 RECOMMENDATIONS

Key Change	Existing Resources		Action Recommended to Achieve Change			
	LGUs	Reg'l Gov't	Nat'l Gov't	CSOs/ Academe	Religious Leaders	Int'l Support Groups
Issue 1: Lack of awareness of women economic rights						
1.1 Increased awareness of women on their economic rights	-Community-based information systems (CBMIS) - organized People's Organizations	Intensify print and media linkage	-national agencies to provide technical assistance	DepEd to include in the curriculum the teaching of women's property rights in ALS	-incorporate teachings of Islam on women's economic and property rights in the Khurba, etc.	Fund support for IEC materials and activities

	- presence of radio stations and other media					- including the madaris	
1.2. Strengthen capital assistance	-presence of IGP's in the LGUs	-to provide capital assistance -to tap local budget for IGP -to submit proposals for CSOs and international funding agencies	Sustain, self employment assistance of ASFP-CDA			MRLs to include in the khutha that access to credit facilities is not haram for as long as they practice the Islamic system of lending.	Fund support
Issue 2: Tribal/Religious/Political Discrimination by some employers							
2.1.Lobby for equal opportunity employment	-RLA - advocacy teams -issuances of the CSC	-active legislative bodies -strengthen advocacy team	Elevate issues to the CSC for government and DOLE for private	CSC		To include the Ulama's in all advocacy activities	None
Issue 3: Husband's permission required for wife seeking work							
3. Improve the existing support system to working parents.	- day care service	-improve day care service delivery	Establishment of child minding centers			Access CDF	Funding support for infrastructures

C. GOVERNANCE AND POLITICAL DECISION-MAKING-ISSUES

Issue	Why Strategic	Consequence if Not Addressed
1. NON-PARTICIPATION OF WOMEN IN POLITICS		
Vote buying in politics	Regardless of qualified power women	Low rate of women in politics and governance
Reluctance of women to demand good governance, service deliveries		Women cannot exercise their rights in politics and government
Advocacy, education to good governance		Poverty rate increased
There is a need for women increasing women's political participation in SEA or NDI	Women must be empowered with political recognition	

Issue	Why Strategic	Consequence If Not Addressed
Muslim women take for granted their, political right such right to vote, political party preferences etc., leading to lack of political will to initiate change	Education to Muslim women on their political right	If not taken action, observe the community of culture and science among women
2. WOMEN AS LEADERS		
Woman should be given more space in the state		If there are more women leader, men shall treat women equally
Women cannot lead a state	Discriminatory and confusing	Marginalization against women
Patriarchal system in politics	No credible women can participate in politics	
Women inside the political circle/governance is still controlled/influenced by her husband in terms of decision making process	Experiment through education to women who are in political sector/group	If not taken action, women rights on politics is denied and culture of silence of women is observed
Disproportionate ratio of men and women having opportunities to be elected	Having more women elected in leadership position would mean greater opportunity for women's issues to be heard and acted upon	Women's issues would continue to be ignored/take the backseat

C.1 RECOMMENDATIONS:

Key Change	Existing Resources	Action Recommended to Achieve Change					
		LGUs	Reg'l Gov't	Nat'l Gov't	CSOs/ Academe		
1. Appreciation of the capacity of both men and women to be leaders	<ul style="list-style-type: none"> ▪ Human resource ▪ POs/ NGOs ▪ GOs/GAs ▪ Network/ Linkages ▪ Materials ▪ CAPWIP modules -Making governance gender responsive -Transformative leadership in politics -“why women” why now, why you -21st century women -Modules on GST and GAD planning and budgeting 	<ul style="list-style-type: none"> ▪ Advocacy/IEC ▪ GAD planning and budgeting and implementation ▪ Monitoring and Evaluation 	<ul style="list-style-type: none"> ▪ Support Capacity building ▪ Policy advocacy ▪ GAD planning, budgeting and implementation ▪ Monitoring and Evaluation 	<ul style="list-style-type: none"> ▪ Policy Advocacy ▪ Funding support 	<ul style="list-style-type: none"> ▪ Informal meetings/ community assemblies ▪ Dialogues and trainings ▪ CO-Participatory Research ▪ IEC ▪ Monitoring and Evaluation 	<ul style="list-style-type: none"> ▪ Strengthen Da'wa, ▪ Provide guidance 	<ul style="list-style-type: none"> ▪ Funding support ▪ Networking ▪ Partnership-building with local women's organizations

