

ISLAMIC FAMILY LAW IN THE PHILIPPINES: A HISTORICAL SURVEY

Anshari Pangaga Ali

This work deals with the historical development of Islamic family law in the Philippines. Specifically, it describes the scope of the Shari'ah law enforced and implemented in the Moroland during the Sultanate period as well as during the periods of colonization by the Spaniards and the Americans. It also discusses the codification of Islamic family law as part of the laws of the state, the contributing factors for its enactment and the method used in resolving some problems encountered while adapting the Shari'ah personal law into the civil legal system of the Philippines.

Introduction of Islamic Law in the Moroland

Historically, the spread of Islam in the Philippines inevitably brought forth its legal system in the Moroland in the early fourteenth century. This process was part and parcel of the Islamization activities in the Malay-Indonesian Archipelago. A Muslim tombstone at Bud Dato in Jolo, Sulu, dated 1310, is an indication of early Muslim settlement in the region.¹ However, according to the Sulu *tarsila* (*silsila*: genealogical record of noble families), Islam was introduced there in the second half of the 14th century by an 'Arab missionary called Sharif Awliya' Karim al-Makhdum who arrived in Bwansa near Jolo from Malacca in around 1380.² He was said to have traveled in various islands of

¹ See Syed Muhammad Naquib al-Attas, *Preliminary Statement on the General Theory of the Islamization of the Malay-Indonesian Archipelago*, (Kuala Lumpur: Dewan Bahasa dan Pustaka, Kementerian Pelajaran, 1969), 12, hereafter cited as *Preliminary*.

² See Peter G. Gowing, *Muslim Filipino-Heritage and Horizon*, (Quezon City: New Day Publishers, 1979), 18, hereafter cited as *Heritage*; see also *Preliminary*, 12.

Sulu, and was credited with having converted the inhabitants to Islam. Ten years later, a Minangkabaw Prince called Rajah Baguinda came to Sulu from Sumatra and strengthened Islamic consciousness in the area. However, the most dramatic aspect of the Islamization of Sulu was the coming of Sharīf Abū Bakr, also an Arab missionary.³ He arrived in Buansa, Sulu in 1450 through Palembang and Brunei after preaching Islam successfully in Malacca.⁴ He was a famous authority on law and religion. His claim to be a descendant of the Prophet (may peace be upon him) won him the title of *al-Sultān al-Sharīf al-Hashīm* of Sulu which indicates his noble lineage.⁵

As for the introduction of Islam in Mindanao, credit can be given to Sharīf Muḥammad Kabungswan, a *Sayyid* who had married a Malaccan princess who arrived at the mouth of river Pulangi (now Cotabato) some time in 1476.⁶ According to the old Maguindanao *salsila*, he had an Arab father and a Malay mother and was said to be a descendant of the Prophet (may peace be upon him).⁷ The Iranuns and Maguindanaons described him as a devout and learned Muslim who succeeded in effecting conversions in the region. However, a Maranao *salsila* tells of another Sharīf 'Alawī who arrived in what is now known as Misamis Oriental and preached Islam in the area as far as Bukidnon and the principalities of Lanao called *pat a pangampong a ranao*.⁸ The Islamization of Luzon and Visayas

³ Datumanong Sarangani, "Islamic Penetration in Mindanao and Sulu" in the *Mindanao Journal*, Vol. 3, Nos. 3-4 (1977), 31, hereafter cited as "Penetration", also see *Preliminary*, 12-13.

⁴ *Ibid.*, 46.

⁵ Najeeb Saleeby, *History of Sulu* (Manila: Filipiniana Book Guild, Inc., 1963), 46, hereafter cited as *History of Sulu*.

⁶ See *Preliminary*, 15; also see "Penetration", 21.

⁷ See *Heritage*, 21.

⁸ Cesar Adib Majul, *Muslims in the Philippines* (Quezon City: University of the Philippines Press, Diliman, 1973), 71, hereafter cited as *Muslim*; see also *Horizon*, 23. The term *Pat a pangampong a ranao* refers to the four principalities of Lanao known as Bayabao, Masiu, Unayan and Baloi. The boundaries of the principalities can be traced on a modern map of the three