

Comparison: Divorce under PD 1083 with civil law divorce/annulment

Here's a **comparative overview of divorce under Presidential Decree No. 1083 (Code of Muslim Personal Laws of the Philippines)** and civil law (Civil Code and Family Code) on dissolution of marriage:

COMPARATIVE TABLE: DIVORCE UNDER PD 1083 VS. CIVIL LAW

Aspect	Muslim Law (PD 1083)	Civil Law (Family Code)
Governing Law	PD 1083, <i>Code of Muslim Personal Laws of the Philippines</i>	Family Code of the Philippines
Religious Basis	Derived from Qur'an, Sunnah, and classical fiqh (Islamic jurisprudence)	Secular and statutory in nature
Who May Avail	Muslims, or a Muslim male married under Muslim law (Art. 13, PD 1083)	All persons married under civil law
Concept	Divorce (<i>ṭalāq</i>) means the dissolution of marriage by the act of the husband, wife, or court on permissible grounds.	Divorce is not recognized in the Philippines; only <i>annulment</i> or <i>declaration of nullity</i> is allowed.
Forms of Divorce	Recognized types under Arts. 45–55, PD 1083 : 1. Talaq – Repudiation by the husband 2. Tafwid – Delegated divorce (wife exercises right granted by husband) 3. Khul' – Divorce by redemption (wife offers compensation) 4. Li'an – Divorce due to false accusation of adultery 5. Faskh – Judicial decree of dissolution by the court	None. However, the following are civil remedies: 1. Declaration of Nullity (void ab initio) 2. Annulment (voidable marriage) 3. Legal Separation (without dissolution)
Grounds	Broad and flexible: cruelty, failure to support, impotence, adultery, mutual incompatibility, etc. (see Arts. 52–55)	Limited to psychological incapacity (Art. 36, Family Code), vitiated consent, bigamy, impotence, and other defects existing before/during marriage.

Aspect	Muslim Law (PD 1083)	Civil Law (Family Code)
Procedure	Filed before Shari'a Circuit Court (Art. 155). The husband must register <i>ṭalāq</i> pronouncement (Art. 161 PD 1083). Reconciliation through Agama Arbitration Council is encouraged (Art. 160).	Filed before Family Court under Rules of Court. Involves judicial trial, prosecutor investigation, and psychological evaluations (for Art. 36).
Waiting Period ('iddah)	Wife must observe an 'iddah (waiting period) before remarrying: - 3 menstrual cycles if divorced - 4 months & 10 days if widowed (Arts. 28–29, 56 PD 1083)	None specified, but remarrying before finality of judgment is void and penalized under Art. 350 RPC.
Effect on Property	Property relations dissolved; wife entitled to mahr (dower) , <i>mut'ah</i> (consolatory gift), and support during 'iddah.*	Liquidation of conjugal property after decree of nullity/annulment (Art. 50–51, Family Code).
Effect on Custody	Governed by Islamic equity : custody (<i>ḥaḍānah</i>) favors the mother until child reaches discretion, unless unfit.	Governed by best interest of the child (Art. 213, Family Code).
Possibility of Remarriage	Yes, after completion of 'iddah, except after three talaqs unless an intervening marriage occurs (Art. 30 PD 1083).	Yes, but only after final decree of nullity or annulment (Art. 53, Family Code).
Recognition by State	Officially recognized by Philippine law through PD 1083 and Shari'a Courts.	Divorce (foreign) is recognized only if obtained by a foreign spouse (Art. 26(2), Family Code).

KEY JURISPRUDENCE

Case	Doctrine / Relevance
Tuan v. Sps. Maglonzo , G.R. No. 182016 (2014)	PD 1083 divorce (<i>talaq</i>) validly dissolves Muslim marriage even if husband converts to Islam after civil marriage, if properly registered and procedural requirements met.
Morigo v. People , G.R. No. 145226 (2002)	Distinction between <i>void</i> and <i>voidable</i> marriages; illustrates why Muslim divorce cannot be equated with civil annulment.
Republic v. Orbecido III , G.R. No. 154380 (2005)	Recognized foreign divorce for a Filipino spouse married to a foreigner — contrast to internal non-recognition for Filipinos.
Sharif v. Sharif , G.R. No. 220598 (2021)	Emphasized <i>talaq</i> 's validity only upon compliance with PD 1083 (notice, registration, iddah).



KEY TAKEAWAYS

- **PD 1083 allows divorce as a lawful act** grounded in Qur’anic and juristic tradition, balancing rights of both spouses.
 - **Civil law prohibits divorce** to uphold the constitutional sanctity and indissolubility of marriage.
 - **Procedural compliance under PD 1083** (notice, arbitration, registration) is essential for state recognition.
 - **Civil annulment** is retrospective (marriage void ab initio), while **Muslim divorce** is prospective (ends a valid marriage).
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CONCLUSION

In essence:

- **Muslim divorce under PD 1083** is a *religio-legal dissolution*—recognized by the Philippine State only for Muslims.
 - **Civil annulment** is a *judicial declaration* that a marriage was void or defective from the start.
 - Both serve to end marital bonds but arise from **different legal and theological foundations**: *Shari’a* vs. *civil canon*.
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References:

- P.D. No. 1083, *Code of Muslim Personal Laws of the Philippines* (Arts. 13, 45–57, 155–161).
 - Family Code of the Philippines (Arts. 35–45, 55–68).
 - *Tuan v. Maglonzo*, G.R. No. 182016 (2014); *Sharif v. Sharif*, G.R. No. 220598 (2021).
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Disclaimer:

This comparison is for **study and research purposes only**. It is **not legal advice**. For specific cases, consult an accredited **Shari’a lawyer** or **Family Court attorney**.