

REPORT ON PUBLIC CONSULTATION ON DRAFT ADMINISTRATION OF MUSLIM LAW (AMENDMENT) BILL 2017

1 The Ministry of Culture, Community, and Youth (MCCY) sought public feedback on proposed amendments to the Administration of Muslim Law Act (Amendment) Bill 2017 from 14 March to 13 April 2017.¹ We received feedback from individuals, community leaders, and groups, including the following (in alphabetical order):

- Association of Women for Action and Research (AWARE)
- Centre for Research on Islamic and Malay Affairs (RIMA)
- Jaafari Muslim Association of Singapore (JMAS)
- Muslim Financial Planning Association (MFPA)
- Muslim Law Practice Committee of the Law Society of Singapore (MLPC)
- Singapore Islamic Scholars and Religious Teachers Association (PERGAS)
- Singapore Muslim Women's Association (PPIS)

2 MCCY would like to thank all who took the time to share their valuable comments and suggestions. The key points in the feedback are as follows.

A. Reinforce Muslim Institutions

3 There was strong support for proposals to introduce domicile requirements for parties applying for divorce at the Syariah Court (SYC).

4 On the proposal for the Registry of Muslim Marriages (ROMM) to give its in-principle approval for a marriage to be registered if a couple wishes for a wali to solemnise their marriage, there was support for the need to verify that the appropriate wali has been appointed, and where necessary, to direct the couple to go through the required processes set out in AMLA. There were also suggestions to tighten this process to protect the interests of the to-be married parties involved; in particular, to have all solemnisations by a wali to be conducted in the presence of the Kadi or Naib Kadi. We will study this suggestion further.

B. Enhance the Management of Muslim Assets

5 There was general acceptance of the need to strengthen the management of wakafs. We note feedback for the Islamic Religious Council of Singapore (MUIS) to remind mutawallis² that there is a formalised wakaf dispute resolution framework, conducted by an independent panel comprising lawyers and experts, for any related disputes.

6 Several wakaf mutawallis expressed strong support for the proposal to establish a separate sinking fund for wakafs. There was recognition that mutawallis must be committed to the future upkeep and development of their wakafs. We wish to clarify that the contribution proportions will be decided on a case-by-case basis, in

¹ In preparation of the draft Bill, MCCY and partner Agencies – the Islamic Religious Council of Singapore and the Ministry of Social and Family Development – have taken into account feedback and recommendations from over the years, conveyed by community organisations, practitioners, stakeholders, and the public.

² A “mutawalli” means a person appointed to manage a wakaf or mosque, and includes a trustee.

consultation with the mutawallis and with due consideration given to the individual wakaf's income and needs of its beneficiaries.

7 There was general acceptance of the need to clarify the scope of the Mosque Building and Mendaki Fund (MBMF). Support was shown for MUIS' efforts to increase prayer space, through the building of new mosques and upgrading of existing ones. There was also broad agreement to better support our full-time madrasahs, which train future asatizah to be the "heartware" of our religious institutions. We wish to clarify that the proposed amendment does not compromise existing fund allocations, and that the increase in MBMF contribution rates in June 2016 would be able to accommodate these purposes. MUIS will continue to ensure that the MBMF is used judiciously.

C. Further Strengthen Muslim Families

8 The proposals for minor couples (where either one party is below 21 years old) to (a) attend a marriage preparation programme; and (b) seek parental consent, received overwhelming support. There was interest in the supporting role of parents and guardians in a minor marriage (being a marriage where either party is below 21 years old). We wish to clarify that they are already engaged in the programme, through consultations at pre-marriage stage and parent/guardian workshops. These aim to discuss their roles in providing strong functional support to these minor couples. Several respondents also called for the marriage preparation programme to be made mandatory for *all* Muslim couples; others advocated a more phased approach, which would subsequently include remarriages and polygamous marriages, while there was also feedback that a legislative approach on such matters may be too coercive and reduce the couple's buy-in. We will study these suggestions in greater detail with the relevant agencies.

9 There was wide support for the child-centric proposals to require parties to attend counselling or a family support programme at any stage of their divorce proceedings, as well as counselling before commencement of such proceedings. Some respondents did express their concerns that mandated counselling may inadvertently prolong the divorce proceedings (or allow some parties to intentionally do so), while a couple also asked if SYC's efforts to "save marriages" may be counter-productive in cases of irreconcilable divorces. It should be noted that a defendant party would not be able to drag proceedings by refusing to participate in counselling, as the plaintiff can attend alone.³ There is also a "triage" system to determine which agency is best placed to assist with any particular case type, and the level of urgency that cases are accorded; irreconcilable divorce cases with risk of domestic violence, for instance, will be expedited for the safety of the victim.

10 Counselling should not be viewed as prolonging proceedings unnecessarily; it also goes beyond reconciliation and saving marriages. It supports parties by providing them with information on self-care and post-divorce care arrangements for the children. Where required, counsellors can also refer parties for specific programmes and services to address their other social needs, such as financial assistance and education support for school-going children.

³ If the defendant subsequently wishes to file a cross-application, the defendant will also be required to attend counselling.

11 There was agreement on the proposals to achieve fairer outcomes in matters related to ownership of household property and inheritances. Respondents felt that these were steps in the right direction.

Other Feedback

12 There were a number of suggestions received on the need to legislate nuzriah⁴, as well as inheritance for parties such as adopted children and non-Muslim parents. We recognise the need for a comprehensive review on these matters. More time is required to assess the landscape and study the implications of any such amendments to AMLA. We are happy to work with key stakeholders, such as the MLPC and MFPA, on the review, with the best interests of the community in mind. In the meantime, members of the Muslim community are currently able to make nominations to benefit the abovementioned parties, through their CPF and insurance policies, joint-tenancy agreements for properties, or separately through a will.

13 A number of respondents spoke about the need for increased recognition of diversity within the Muslim community (e.g. schools of law and orientations), and asked whether this may be better reflected in AMLA. We will study this suggestion further. At the same time, we would like to highlight that MUIS' Code of Ethics (see Annex) obliges all MUIS-accredited religious teachers and preachers to ensure that our religious teachings are always sensitive to Singapore's multi-religious context, and do not in any way denigrate or discriminate against any particular community. MUIS is of the view that the spirit of the Code of Ethics extends to all Muslims in Singapore, as it is vital to work together to preserve our social harmony.

14 There was a recommendation for all proceedings in SYC to be conducted in private ("in camera"), out of respect for all parties, including that of the children.⁵ We will study this suggestion further.

Conclusion

15 MCCY would like to thank all who had contributed their views and feedback during the public consultation period. We will study them carefully, in preparation for the final Bill that will be introduced in Parliament.

Ministry of Culture, Community, and Youth
21 April 2017

⁴ Nuzriah contextually means a nazar made to give part or all of one's wealth before death to another party.

⁵ Section 46(1) of AMLA states that every trial or hearing in Court "shall be held in public", though 46(2) allows for the whole or part of the proceeding to be heard in camera if the Court thinks fit.

Code of Ethics

(as reproduced from the Schedule to the Administration of Muslim Law (Muslim Religious Schools) Rules 2016, Cap. 3, S 730/2016)

1. An Islamic teacher or a Quranic teacher —
 - a) must adhere to the moderate teachings of Islam;
 - b) must exhibit a sound grasp of religious knowledge while being mindful of contextual considerations in the interpretation of religious teachings;
 - c) must always act in ways that retain the trust and confidence of the Muslim community of Singapore towards religious teachers, and that does not bring the profession into disrepute;
 - d) must recognise that there are diverse opinions and schools of thought in Islam, and may choose to adopt and teach any of these so long as this is not likely to be prejudicial to the maintenance of harmony between different religious or racial groups or to cause public disorder; and
 - e) must be guided in matters of religious doctrine by the rulings of the Legal Committee.

2. An Islamic teacher or Quranic teacher must not —
 - a) state that any opinion concerning Islam or any practice of Islam is deviant or unacceptable unless the Legal Committee has pronounced it to be so in a ruling;
 - b) do anything that directly or indirectly denigrates any racial or religious group, or that is likely to be prejudicial to the maintenance of harmony between different religious or racial groups or to cause public disorder; or
 - c) advocate any idea that is likely to encourage extremism or violence, whether directly or indirectly.