



Hidayah Amin <hidayah.amin@gmail.com>

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## Feedback on the Administration of Muslim Law Act (AMLA)

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**MCCY amlafeedback (MCCY)** <amlafeedback@mccy.gov.sg>

Thu, Apr 13, 2017 at 6:04 PM

To: Hidayah Amin <hidayah.amin@gmail.com>

Dear Ms Hidayah Amin,

Thank you for your email. It is well-received.

MCCY

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**From:** Hidayah Amin <[hidayah.amin@gmail.com](mailto:hidayah.amin@gmail.com)>

**Sent:** 12 April 2017 23:03

**To:** MCCY amlafeedback (MCCY)

**Subject:** Feedback on the Administration of Muslim Law Act (AMLA)

Ms Hidayah Amin

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12 April 2017

To Whom It May Concern:

## RE: FEEDBACK ON AMLA

I am emailing in response to the call to the public for comments and feedback regarding AMLA or the Administration of Muslim Law Act.

My name is Nor Hidayah, one of the beneficiaries of the Estate of Haji Yusoff bin Haji Mohamed Noor. I am also Haji Yusoff's great-granddaughter and the Trustee of the Estate of Othman bin Haji Yusoff (Haji Yusoff's son). Haji Yusoff was the owner of Gedung Kuning (Yellow Mansion) located at No. 73 Sultan Gate, Singapore 198497 in Kampong Glam, from 1912. Our family of four generations lived in there from 1912 until 1999, when the government compulsorily acquired the property under the Land Acquisition Act. Mamanda Restaurant currently operates on the premises. Besides being an entrepreneur, Haji Yusoff was one of the trustees of the Sultan Mosque from 1914 to 1944.

I would like to give **feedback on the issue of *faraid* (law pertaining to the distribution of inheritance) especially for *wasiat* or wills that had been made before AMLA was enacted**. I will use my family's embattled situation to highlight this problem that is probably affecting quite a number of Muslim families in Singapore.

Haji Yusoff made a will in 1950. The will was written in English by F.B. Oehlers, Barrister-at-Law. There was no mention of the will being translated in Malay to Haji Yusoff who could neither read nor write English.

**Issue:** There is a clause in the will that stated, "the date of distribution... shall mean 21 years after the death of the last survivor of my said children and of my said grandchildren." The provisions in the will contradict *faraid* as inheritance must be distributed upon the death of the person.

**Implications:** None of the beneficiaries is able to get their inheritance. It has been **67 years** since Haji Yusoff's death and no inheritance has been given out

to the beneficiaries. This is unfortunate as some family members are very old, sickly, homeless and live in poverty. Some had since passed away including one of the trustees, Ustaz Zhulkeflee Haji Ismail.

We had obtained **two fatwa** (rulings) from MUIS regarding this issue. Please refer to the attachments. I had also written to the Minister in-charge of Muslim Affairs (in 2001 and 2003) and to the Prime Minister in 2004 to inform them about the social injustices that were happening to the family of Haji Yusoff. You may visit <http://gedungkuning.com/family-saga/> for more information and documentary evidence.

**Legal position:** AMLA became law only on 1 July 1968. AMLA provides that the estate of a deceased Muslim shall be distributed according to Islamic law. This provision is mandatory. A Muslim may make a will but the will must be made in accordance with Islamic law, e.g. one cannot will his estate to an heir and one cannot will more than 1/3 of his estate. In other words, if the will contravenes or conflicts with the principles of *faraid*, then the will is not valid. This applies only to Muslims who passed away after 1 July 1968.

As much as I understand the jurisdictions of both our Civil and Syariah courts, the situation before AMLA jeopardises Muslim families whose wills contradict Islamic laws. *Faraid* laws exist with Islam since time immemorial. Hence, even before AMLA, we must follow *faraid* laws. Should this not be a consideration? I enclose the newspaper article dated 28 June 1989 where Haji Abu Bakar Hashim, former President of the Syariah Court, stated that wills that contradict Islamic laws can be challenged.

**Long-term Problem:** If AMLA strictly enforces the rule regarding will validity for Muslims who passed away after 1 July 1968, then, families with wills pre-dating 1968 will suffer a terrible injustice. They are unable to carry out the will according to *faraid* even if they are Muslims as there might be contestation issues in the civil court. As time passes, the beneficiaries will grow in numbers, complicating the matter. There will also be problems tracing the beneficiaries. Furthermore, the issue of who would be administering the estate will arise.

As you have stated, AMLA is "regularly reviewed to ensure it is relevant, stays up to date and serves the needs of the Muslim community." Therefore, I hope MCCY

will seriously consider my feedback so as to ensure social justice and fairness regarding the issue of inheritance within Muslim families.

Our family would be happy to meet you to furnish detailed information in response to any inquiries that you may have, and documentary evidence supporting this feedback.

Please do not hesitate to contact me should you have further questions. Thank you.

Yours sincerely,

Hidayah

Encl.

- 1<sup>st</sup> fatwa dated 3 August 2000
- 2<sup>nd</sup> fatwa dated 7 August 2002
- Minister's reply dated 28 May 2001
- '*Wasiat boleh dicabar*' dated 28 June 1989