



Islamic Will and Estate Planning for the Muslim Family

TEXT BY HIGHLIFE PLANNING
WITH THANGA & CO

ISLAMIC WILL (Arabic: *Wasiyyah*; Malay: *Wasiat*) and Estate Planning are not widely practised by Muslims today. This trend is due to the rationale that a will is unnecessary since the Quran specifies everyone's asset distribution through faraidh. Actually, Muslims are encouraged to make a Will.

It is stated in Al-Baqarah (02:180-182), "It is prescribed, when death approaches any of you, if he leaves any goods, that he make a bequest to parents and next-of-kin, according to reasonable usage; this is due from those who fear Allah. If anyone changes the bequest after hearing it, the guilt shall be on those who make the change, for Allah hears and knows (all things). But if anyone fears partially or wrongdoing on the part of the testator, and make peace between (parties concerned), there is no wrong in him; for Allah is Oft-Forgiving, Most Merciful."

Upon death of a Muslim (in Singapore), the Syariah Court issues the Inheritance Certificate (*Sijil Warisan*), which reflects the fractions of the deceased's assets allocated for the heir/s according to faraidh.

The framework for faraidh is set in the Quran under An-Nisa (The Women) (04:07, 11, 12) and in the Hadith of Sahih Muslim (Book 11, Kitab Al-Faraidh).

APPLYING FARAIHD TO CONVERT'S ASSETS

For Muslim Converts, their non-Muslim blood relations are excluded as legal beneficiaries under the Syariah Law.

Usama bin Zaid (RA) reported that Prophet Muhammad (SAW) said, "A Muslim is not entitled to inherit from a non-Muslim, and a non-Muslim is not entitled to inherit from a Muslim" (Sahih Muslim, 11:01:3928).

David is a Muslim Convert who embraced Islam a year ago. Divorced for about 4 years, he now has a 10-year-old son, Alex, from his marriage with a non-Muslim. Now, David has married a Muslim and from this marriage, he is blessed with a daughter. He is also responsibly providing for Alex, who is under the care of his non-Muslim ex-wife. David hopes to send Alex to the university in the future and wishes to provide for his son in the event of his death.

Alex, being a non-Muslim, is unable to inherit from David as a beneficiary unless an Islamic Will is made to provide for Alex, from (the maximum of) 1/3 of David's assets.

It is prudent for every Muslim family to make an Islamic Will upon planning

the Estate/Legacy. In Singapore, the Shafie School of Jurisprudence allows a Muslim to leave up to 1/3 of their estate to non-Muslims or any non-beneficiaries (by faraidh) in their Islamic Will (www.syariahcourt.gov.sg, Faraidh FAQ, point 14).

Some methods to apportion a Muslim's wealth:

- *Hibah*: A gift during one's lifetime
- Matrimonial Asset Share (Malay: *Harta Sepencarian*): By customary law, it is a claim on (up to 50% of) the deceased's total assets by the spouse
- Islamic Trust (Irrevocable): The personal and/or business assets held in Islamic Trust to benefit specific beneficiaries
- Islamic Will: The appointment of the Executor to the Estate assists to avoid disputes amongst family members and expedite the smooth Probate process

To find out more about making Islamic Wills and Trusts while planning your estate, come to the talks held by Highlife Planning with Thanga & Co at Darul Arqam Singapore. Kindly refer to the Association's In-House Bulletin and flyers for the specific dates of these talks. TMFR