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THE TRAINING, APPOINTMENT, AND SUPERVISION OF ISLAMIC LAWYERS IN SINGAPORE

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Abstract: This article provides a snapshot of the administration of Muslim law as practiced in Singapore through the prism of the legal profession. In particular, it provides a brief background on the role of the legal profession in the administration of justice at the Syariah Court of Singapore. While it is beyond the scope of this paper to urge for institutional and legal reform, the paper nonetheless highlights the absence of a dedicated and specialized training program that can aid lawyers to be familiar with Muslim law and jurisprudence and provide better representation to their clients at the Syariah Court.^{††}

I. INTRODUCTION

Muslims make up approximately 15% of Singapore's total population.¹ Although a demographic minority, Singaporean Muslims have recourse to a number of state-supported institutions involved in the administration of Muslim law,² including a cabinet minister in charge of Muslim affairs,³ an Islamic Council regulating various religious⁴ and social

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^{††} In accordance with the policies of the *Pacific Rim Law & Policy Journal*, foreign words that have entered common English usage will not be italicized. Foreign words that are not in common usage will be italicized. Arabic words will not use diacritical marks such as macrons. However, apostrophes and reverse apostrophes will be employed to signal the letters *hamza* and *'ayn*, respectively.

¹ SINGAPORE DEPARTMENT OF STATISTICS, CENSUS OF POPULATION 2010 STATISTICAL RELEASE 1: DEMOGRAPHIC CHARACTERISTICS, EDUCATION, LANGUAGE AND RELIGION (2011), available at <http://www.singstat.gov.sg/pubn/popn/c2010sr1.html>.

² The Singapore Constitution states: "The Legislature shall by law make provision for regulating Muslim religious affairs and for constituting a council to advise the President in matters of the Muslim religion." CONST. OF SINGAPORE, art. 153. Pursuant to this Article, the Singapore Parliament passed the Administration of Muslim Law Act. Administration of Muslim Law Act, Act No. 27 of 1966 [hereinafter AMLA], available at http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-3. The purpose of the AMLA can be seen in its long title as "[a]n Act relating to Muslims and to make provisions for regulating Muslim religious affairs and to constitute a Council to advise on matters relating to Muslim religion in Singapore." *Id*; see also Jaclyn Ling-Chien Neo, *The Protection of Minorities and the Constitution: A Judicious Balance?*, EVOLUTION OF A REVOLUTION: FORTY YEARS OF THE SINGAPORE CONSTITUTION 247 (Li-ann Thio & Kevin YL Tan eds., 2009); Yaacob Ibrahim, Minister-in-charge of Muslim Affairs, Speech at Cairo University: The Integration of Muslim Minorities: The Singapore Example at the Institute for Political Studies and Research (Oct. 2, 2003), available at <http://stars.nhb.gov.sg>. For a historical introduction of Muslims in Singapore, see AHMAD IBRAHIM, THE LEGAL STATUS OF THE MUSLIMS IN SINGAPORE (1965).

³ ANTHONY GREEN, THE MUIS STORY: 40 YEARS OF BUILDING A SINGAPORE MUSLIM COMMUNITY OF EXCELLENCE 61-62 (2009). The website of the Singapore Cabinet Office lists Dr. Yaacob Ibrahim as the current Minister-in-charge of Muslim Affairs, and concurrently, the Minister of Information,

aspects for the community (the “Majlis Ugama Islam Singapura” or “MUIS”),⁵ and a specialist court⁶ handling Muslim family law.⁷ This article presents a brief overview of the position of lawyers involved in cases appearing before Singapore’s Shari’a, or as it is spelled in Singapore and will be written in this article, “Syariah” Court.

II. WHAT ARE THE FORMAL LEGAL REQUIREMENTS TO PRACTICE BEFORE THE SYARIAH COURT?

Unlike Malaysia, Singapore does not have a separate body of legal practitioners (*peguam syarie*) who are specially trained and licensed to practice in the Syariah Court.⁸ Rather, any advocate and solicitor of the Supreme Court of Singapore, Muslim or non-Muslim, who has been appointed by a party to a proceeding may appear before the Syariah Court.⁹

Communication and the Arts. See *Cabinet Appointments*, THE SINGAPORE CABINET OFFICE, available at http://www.cabinet.gov.sg/content/cabinet/appointments/dr_yaacob_ibrahim.html.

⁴ The AMLA states, “It shall be the function and duty of the *Majlis*: (a) to advise the President of Singapore in matters relating to the Muslim religion in Singapore, (b) to administer matters relating to the Muslim religion and Muslims in Singapore including any matter relating to Haj or halal certification, (c) to administer all Muslim endowments and funds vested in it, (d) to administer the collection of zakat and fitrah and other charitable contributions, (e) to administer all mosques and Muslim religious schools, and (f) to carry out such other functions and duties as are conferred upon the *Majlis*.” AMLA, § 3(2).

⁵ On its website, MUIS states that its role is to “see that the many and varied interests of Singapore’s Muslim community are looked after. In this regard, MUIS is responsible for the promotion of religious, social, educational, economic, and cultural activities in accordance with the principles and traditions of Islam as enshrined in the Holy *Quran* and *Sunnah*.” ISLAMIC RELIGIOUS COUNCIL OF SINGAPORE, <http://www.muis.gov.sg/cms/aboutus/default.aspx> (last visited Nov. 18, 2011).

⁶ Noor Aisha Abdul Rahman, *Muslim Personal Law within the Singapore Legal System: History, Prospects and Challenges*, 29 J. OF MUSLIM MINORITY AFFAIRS 109, 110-12 (2009). See also Helena Chan, *The Legal System of Singapore*, ASEAN LAW ASSOCIATION, ASEAN LEGAL SYSTEMS 290-92 (1995). On its website, the Syariah Court states that it is an “institution [that settles] disputes between divorcing parties.” See *About Us-Philosophy*, SYARIAH COURT SINGAPORE, http://app.syariahcourt.gov.sg/syariah/front-end/AboutUs_Philosophy_E.aspx (last visited Nov. 18, 2011).

⁷ For more on the broader context of the administration of Muslim law in Singapore, see Ahmad Nizam bin Abbas, *The Islamic Legal System in Singapore*, 21 PAC. RIM L. & POL’Y J. 163 (2012).

⁸ In Malaysia, parties are represented by the *peguam syarie* in the Syariah courts. The admission of a *peguam syarie* in the Syariah Court is regulated by state and federal laws. No similar laws exist in Singapore. See FARID SUFIAN SHUAIB, POWERS AND JURISDICTION OF SYARIAH COURTS IN MALAYSIA 65-68 (2008).

⁹ Section 39 of the AMLA states: “Every party to any proceedings shall appear in person or by advocate and solicitor or by an agent, generally or specially authorized to do so by the Court.” AMLA, § 39. See also MUSLIM MARRIAGE AND DIVORCE RULES, Rule 2(1) (defining “solicitor” as an advocate and solicitor of the Supreme Court).

A. *Who Is Responsible for Establishing the Qualifications to Practice Before the Syariah Court?*

The Legal Profession Act and the Legal Profession Rules prescribe the requirements, procedures, and forms with regard to admission as an advocate and solicitor of the Supreme Court of Singapore.¹⁰ No further special qualifications are required to practice before the Syariah Court.

B. *Can a Lawyer Qualified to Practice Before the Civil Courts Practice in the Syariah Courts, and Can a Lawyer Qualified to Practice in the Syariah Courts Practice in the Civil Courts?*

Yes, an advocate and solicitor of the Supreme Court of Singapore may appear before the Syariah Court and the civil courts.¹¹

C. *What Proportion of Litigants in the Syariah Court Are Represented by a Lawyer?*

There is no data in the public domain that would show the proportion of litigants in the Syariah Court represented by lawyers. However, under the Legal Aid and Advice Act, the Legal Aid Bureau may provide legal aid, assistance, and advice to persons who are Singaporean citizens or permanent residents¹² and who pass the Means¹³ (financial eligibility) and Merits¹⁴ (reasonable grounds for granting legal aid) tests. Thus, litigants at the Syariah Court who have been granted legal aid by the Legal Aid Bureau will be represented by a lawyer.¹⁵

¹⁰ The Ministry of Law's website states that individuals who wish to be admitted as an advocate and solicitor of the Supreme Court of Singapore must meet all the requirements of being a "qualified person" and fulfill other admission requirements under the Legal Profession Act and the Legal Profession Rules. See *Qualified Person and Admission Requirements*, MINISTRY OF LAW, available at <http://app2.mlaw.gov.sg/UsefulInfo/PracticeoflawinSingapore/QualifiedPersonAdmissionRequirements/tabid/574/Default.aspx>.

¹¹ AMLA, § 39; MUSLIM MARRIAGE AND DIVORCE RULES, Rule 2(1).

¹² Legal Aid and Advice Act, Act 20 of 1995, § 5(1) ("[s]ubject to this Part, legal aid may be given to citizens and permanent residents of Singapore in any civil proceedings of a description mentioned in Part I of the First Schedule...").

¹³ *Id.* § 8(2)(b) ("[t]he Director [of Legal Aid] may grant to an applicant a certificate stating that the applicant is granted legal aid under the provisions of this Act in connection with any proceedings where the Director is satisfied that the applicant is not possessed of or entitled to disposable capital of a total value exceeding the amount set out in the Second Schedule; and that the disposable income of the applicant does not exceed the amount set out in the Second Schedule").

¹⁴ *Id.* § 8(2)(a) ("[b]efore approving an application for legal aid, the Director [of Legal Aid] shall refer the application to a board (referred to in this section as the board) consisting of the Director and not fewer than [two] solicitors whose names are on the appropriate panel maintained pursuant to section 4").

¹⁵ *Id.* sched. 1, part 1 (listing proceedings at the Syariah Court as civil proceedings for which legal aid may be given). See also LEGAL AID BUREAU, <http://www.lab.gov.sg> (last visited Nov. 18, 2011).

D. Can Persons Who Are Not Licensed to Practice Law Provide Legal Services to Litigants in the Syariah Court?

Apart from lawyers, Section 39 of the AMLA also allows authorized agents to represent parties before the Syariah Court.¹⁶ However, there are currently no authorized agents providing such legal services in Singapore.¹⁷

III. ADMISSION TO PRACTICE BEFORE THE SYARIAH COURT

A. What Are the Procedures for Licensing/Admission to Practice Before the Syariah Court?

Advocates and solicitors of the Supreme Court of Singapore may appear before the Syariah Court without having to undergo a separate licensing or admission procedure.¹⁸

B. Who Prepares the Examinations Administered to Prospective Lawyers?

There are no separate examinations administered to prospective lawyers in order to practice before the Syariah Court.¹⁹ However, law students at the National University of Singapore (“NUS”) have some basic exposure to Islamic law through the mandatory second-year course on Comparative Legal Traditions.²⁰ In addition to this, some students may elect to study aspects of Islamic law in elective courses, including those run by visiting professors specializing in Islamic legal studies, such as Wael Hallaq and Clark B. Lombardi.²¹ Participants of the postgraduate practical law course would also have some knowledge of the applicability of Muslim law in Singapore.²²

¹⁶ AMLA, § 39. For a brief history of law agents in Singapore, see Aedit Abdullah, *The Legal Profession*, ESSAYS IN SINGAPORE LEGAL HISTORY 193-201 (Kevin YL Tan ed., 2005).

¹⁷ See Abdullah, *supra* note 16, at 198.

¹⁸ AMLA, § 39; MUSLIM MARRIAGE AND DIVORCE RULES, rule 2(1). See also SHUAIB, *supra* note 8.

¹⁹ AMLA, § 39.

²⁰ The NUS Faculty of Law website lists comparative legal traditions as a compulsory core law courses. See *Degree Requirements*, NATIONAL UNIVERSITY OF SINGAPORE, http://www.nus.edu.sg/registrars/nusbuletin/FoL/UG/degreqs.html#3_2_2 (last visited Nov. 18, 2011).

²¹ Wael Hallaq was a visiting professor at the NUS Faculty of Law. See NUS FACULTY OF LAW, RESEARCH PROFILE 12 (2005). While at NUS, Wael Hallaq supervised a graduate research paper titled “The Politics of Islamization: Legal and Constitutional Experiences of Pakistan to Enforce Shariah.” See NUS FACULTY OF LAW, RESEARCH PROFILE 92 (2009).

²² See BOARD OF LEGAL EDUCATION, FAMILY LAW PRACTICE AND PROBATE 99-109 (Patrick Nathan ed. 2007).

IV. WHAT IS THE PROFILE OF SYARIAH COURT LAWYERS IN THE SINGAPORE BAR?

There is no data in the public domain that provides the number or demographic profile of lawyers practicing before Singapore's Syariah Court. The Law Society of Singapore does, however, have a website that includes a list of lawyers with current practicing certificates.²³

A. *What Credentials Do Syariah Court Lawyers Have?*

As stated above, all practicing lawyers must have qualifications recognized by the Legal Profession Act to appear in court.²⁴ Beyond these requirements, there are no further specific qualifications required for such lawyers if they wish to appear before Singapore's Syariah Court as well.²⁵

B. *What Continuing Education is Offered or Required for Syariah Court Lawyers?*

There are no specific courses that lawyers must attend in order to appear before the Syariah Court.²⁶ There are, however, elective training courses administered through the Centre for Islamic Management Studies ("CIMS"), including locally conducted courses using faculty and curriculum from the International Islamic University Malaysia ("IIUM").²⁷ These include Diploma in Islamic Studies ("DISP"), Diploma in Shari'ah Law & Practice ("DSLIP"), and Certificate in Islamic Banking and Finance ("CIBF").²⁸

²³ The Law Society of Singapore's website allows users to find a lawyer by law practice. There is currently one lawyer who lists Syariah law as an area of practice. However, it is not possible that this lawyer is the only one practicing at the Syariah Court. See DIRECTORY: AREAS OF PRACTICE, THE LAW SOCIETY OF SINGAPORE, http://www.lawsociety.org.sg/directory/advertisers/syariah_law/result_page.aspx (last visited Nov. 18, 2011).

²⁴ *Qualified Person and Admission Requirements*, *supra* note 10.

²⁵ AMLA, § 39; MUSLIM MARRIAGE AND DIVORCE RULES, Rule 2(1). See also SHUAIB, *supra* note 8.

²⁶ AMLA, § 39.

²⁷ According to its website, CIMS conducts the Diploma in Syariah Law and Practice program in collaboration with the IIUM. See CENTRE FOR ISLAMIC MANAGEMENT STUDIES, <http://www.cims.com.sg/> (last visited Nov. 18, 2011).

²⁸ See *Courses*, CENTRE FOR ISLAMIC MANAGEMENT STUDIES, <http://www.cims.com.sg/products.php>. For a more detailed discussion of the content of these IIUM course programs developed in Malaysia, see Najibah M. Zin, *The Training, Appointment, and Supervision of Islamic Judges in Malaysia*, 21 PAC. RIM L. & POL'Y J. 115, 119-25 (2012).

As of June 2011, all lawyers in private practice have had to take mandatory classes, known as the Continuing Professional Development program.²⁹

C. *How Are Syariah Court Lawyers Regulated?*

Under Section 83(1) of the Legal Profession Act, all advocates and solicitors shall be “subject to the control of the Supreme Court.”³⁰ There are no further specialized regulations for those lawyers who elect to practice before the Syariah Court.³¹

D. *Is There a Code of Ethics for Syariah Court Lawyers?*

All lawyers with practicing certificates must adhere to the standards of conduct prescribed by the Legal Profession (Professional Conduct) Rules.³² This applies equally to those practicing in Syariah Court and those who do not.³³

V. WHAT ARE THE MECHANISMS FOR DISCIPLINING SYARIAH COURT LAWYERS?

There are two types of complaints that can be made against a lawyer, 1) a complaint of inadequate professional service and, 2) a complaint of professional misconduct.³⁴ The manner of and procedure for disciplining lawyers is explained in part VII of the Legal Profession Act.³⁵

VI. WHAT IS THE ROLE OF PROFESSIONAL ORGANIZATIONS?

The Muslim Law Practice Committee (“MLPC”)³⁶ initiates dialogue with institutions like MUIS and conducts seminars on the practice of Muslim

²⁹ K.C. Vijayan, *Mandatory Classes for Lawyers from June Next Year*, STRAITS TIMES (Sing.), June 4, 2010, available at <http://www.law.smu.edu.sg/cle/documents/ST.pdf>.

³⁰ Legal Profession Act, Act No. 57 of 1966, § 83(1); see 1 BOARD OF LEGAL EDUCATION, PROFESSIONAL RESPONSIBILITY 126-55 (Patrick Nathan ed., 2009).

³¹ AMLA, § 39; MUSLIM MARRIAGE AND DIVORCE RULES, Rule 2(1). See also SHUAIB, *supra* note 8.

³² See also TAN YOCK LIN, THE LAW OF ADVOCATES AND SOLICITORS IN SINGAPORE AND WEST MALAYSIA, (2d ed. 1998); JEFFREY PINSLER, ETHICS AND PROFESSIONAL RESPONSIBILITY: A CODE FOR THE ADVOCATE AND SOLICITOR (2007).

³³ AMLA, § 39; MUSLIM MARRIAGE AND DIVORCE RULES, Rule 2(1). See also SHUAIB, *supra* note 8.

³⁴ See Legal Profession Act, Act No. 57 of 1966, §§ 75B, 85(1).

³⁵ LIN, *supra* note 32; PINSLER, *supra* note 32.

³⁶ The website of the Law Society of Singapore lists the current members of the Muslim Law Practice Committee (MLPC). See *Committees 2011*, THE LAW SOCIETY OF SINGAPORE, available at http://www.lawsociety.org.sg/about/organisation_structure/committee.aspx.

law in Singapore.³⁷ In 2008, during the Second Reading of the Administration of Muslim Law (Amendment) Bill, the Minister-in-charge of Muslim Affairs expressed his gratitude to the MLPC for the recommendation with regard to how the enforcement procedure for Syariah Court orders could be streamlined further.³⁸ Previously, Syariah Court orders had to be registered at the district court before they could be enforced by the district court. This registration process costs time and money.³⁹ The MLPC recommended an amendment that, for the purposes of enforcement, Syariah Court orders could be treated as district court orders.⁴⁰ Therefore, there was no need to register the Syariah Court order. After studying the issue with the district court and the Ministry of Law, the Minister agreed to include this recommendation⁴¹ and Parliament later passed the amendment.⁴²

³⁷ See, e.g., LAW SOCIETY OF SINGAPORE, ANNUAL REPORT 2009, available at http://www.lawsociety.org.sg/about/annual_report/2009/src/Lawsoc_Annual_Report_2009.pdf (report by the then Chairperson of MLPC). See also the report on the MLPC Roundtable, which discussed the implications of a decision by the Singapore Court of Appeal on Muslim inheritance issues. *Muslim Law Practice Committee Roundtable: Implications of Shafeeg's Case*, LAW GAZETTE, <http://www.lawgazette.com.sg/2010-08/feature2.htm> (last visited Nov. 18, 2011).

³⁸ See SINGAPORE PARLIAMENTARY DEBATES OFFICIAL REPORT, ADMINISTRATION OF MUSLIM LAW (AMENDMENT) Bill Vol. 85 (Nov. 17, 2008) col. 731 [hereinafter AMLA Debates]; *The Second Reading of the Administration of Muslim Law Act (Amendment) Bill in Parliament*, MINISTRY OF COMMUNITY DEVELOPMENT, YOUTH, AND SPORTS (Nov. 17, 2008), <http://app1.mcys.gov.sg/PressRoom/TheSecondReadingoftheAdministrationofMuslim.aspx>.

³⁹ See SINGAPORE PARLIAMENTARY DEBATES OFFICIAL REPORT, *supra* note 38, at col. 731; *The Second Reading of the Administration of Muslim Law Act (Amendment) Bill in Parliament*, MINISTRY OF COMMUNITY DEVELOPMENT, YOUTH, AND SPORTS (Nov. 17, 2008), <http://app1.mcys.gov.sg/PressRoom/TheSecondReadingoftheAdministrationofMuslim.aspx>.

⁴⁰ See SINGAPORE PARLIAMENTARY DEBATES OFFICIAL REPORT, *supra* note 38, at col. 731; *The Second Reading of the Administration of Muslim Law Act (Amendment) Bill in Parliament*, MINISTRY OF COMMUNITY DEVELOPMENT, YOUTH, AND SPORTS (Nov. 17, 2008), <http://app1.mcys.gov.sg/PressRoom/TheSecondReadingoftheAdministrationofMuslim.aspx>.

⁴¹ See SINGAPORE PARLIAMENTARY DEBATES OFFICIAL REPORT, *supra* note 38, at cols. 731-32.

⁴² *Id.*