

RECORDING LINEAGE

## FEDERAL COURT MADE RIGHT DECISION

**I**NTERNATIONAL Women's Alliance for Family Institution and Quality Education (WAFIQ) believes that the best interests of a child should be for him or her to have a legitimate father and mother, and to be born within a framework of love, commitment and with utmost respect for Islamic values within the family.

The recent case of a biological father applying to have his illegitimate Muslim child ascribed to his name instead of bin Abdullah is referred to and of relevance.

WAFIQ is concerned with the calls to amend laws that insofar have caused no problems to the majority of the public who have complied with local culture and

religious values.

Furthermore, the Births and Deaths Registration Act 1957 (BDRA) has all this while been assisting our National Registration Department (NRD) in recording actual facts with full objectivity without prejudices.

WAFIQ therefore welcomes the decision of the Federal Court having ruled that Section 13A(2) of the BDRA has no application to the Malay naming system and that to name an illegitimate child to the biological father on the basis it is a surname of the father pursuant to section 13A, as previously held by the Court of Appeal, is without basis either legally, factually and linguistically.

The Federal Courts have right-

fully reached the decision by referring to the views of those experts, namely, Associate Professor Dr Kassim Thukiman; Associate Professor Dr Mohd Rosli Saludin and Professor Dr Teo Kok Seong.

WAFIQ also applauds the Federal Court decision that the NRD has acted and exercised its discretion reasonably by referring to the Islamic Law on Legitimacy. This important principle not only concerns the case of legitimacy but also has considerable bearing over various other issues which require references to the syariah, such as Female Circumcision, Abortion and Sex Reassignment Surgery.

WAFIQ acknowledges that

there has been criticism levelled against reference to fatwa and Islamic laws by the Ministry of Health and the NRD pertaining to the above issues, mostly utilising arguments based on secular principles in policy-making and governance.

However, it must be impressed that the complexity of the case should be a reminder to society to not take zina (sex out of wedlock) lightly and that the best interests of children would be better served by implementing concerted efforts in curbing this behaviour.

Furthermore, the NRD is correct in documenting the actual record that helps explain lineage. Lineage should not be "ob-

scured" through manipulations of the registration procedure.

If it is not documented properly then the family would have to rely on the word of mouth to explain about lineage instead of having conclusive proof thereof from the relevant authorities.

The harmful effects of zina and illegitimacy are clearly seen in countries where the family institution has collapsed and sexual promiscuity prevails. It would be prudent for us to address these problems at their root rather than just symptomatically with inadequate stop-gap measures.

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