



ALLIED COORDINATING COMMITTEE OF ISLAMIC NGOS (ACCIN) STAKEHOLDER REPORT FOR MALAYSIA'S 3RD CYCLE OF UNIVERSAL PERIODIC REVIEW

Introduction

1. ACCIN was established in 2001 as a coordinating body to synchronize and synergize efforts by Islamic Civil Society Organizations (CSOs) in matters relating to interfaith and intercultural harmony. Since its formation, ACCIN has attended various dialogues with its members to advocate,¹ and train the Malaysian public on human rights issues based on our local narratives.²
2. At present, ACCIN has 20 CSO members registered as its Alliance, made up of professionals from various disciplines including academicians and humanitarian activists. Within the UPR process, ACCIN was involved in the consultation process with the Malaysian Government through its engagements with several state and federal bodies, specifically to fortify interfaith harmony in Malaysia.³

Discrimination Towards Muslim Reverts By The Society

3. The conundrum faced by Muslim reverts, also called *muallafs*, is confounded by the false perceptions of certain segments within the public.⁴

¹ To illustrate, in 2014, ACCIN had published its human rights findings in a book entitled "Human Rights within Islamic Tradition", which aims at educating the Malaysian public on the importance of highlighting human rights issues based on Islamic teachings: Muddathir Abdel-Rahim, *Human Rights within Islamic Tradition*. Kuala Lumpur: ACCIN, 2014. Print.

² ACCIN saw a growing need to train activists and humanitarians in order to maximize our members' human rights works. For this purpose, between 2014 - 2017, ACCIN had conducted training workshops for CSOs registered under it, both in Peninsular and West Malaysia. ACCIN had organized and participated in series of training and engagement sessions in Kuala Lumpur, Putrajaya, Kedah, Sabah and Sarawak.

³ As an example, in October 2017, ACCIN was involved in outreach programs organized by National Unity and Integration Department, Malaysia to fortify interfaith dialogues in Sabah.

⁴ Nikole Mikhael Abdullah (24 Sept 2015) *Think of the Chinese Muslims*, Retrieved from <https://www.thestar.com.my/opinion/letters/2015/09/24/think-of-the-chinese-muslims/>

4. It is widely perceived that when one embraces the religion of Islam, he or she also becomes a Malay by race.⁵ This misconception could stem from the constitutional definition of what it means to be a 'Malay' within the Federal Constitution.⁶
5. The act of embracing Islam by Chinese ethnics is sometimes viewed as the act of turning away from one's ethnicity. Consequently, the reverts are shunned away by his family, relatives and society as he is now deemed as a 'traitor' to the ethnic.⁷
6. In turn, the Muslims reverts are deprived of their traditions, customs and cultures as their practice of the same is no longer supported by the communities they live in.⁸ Since Chinese ethnic (who are generally non-Muslims in Malaysia), hold the majority stakes economically, this also means Muslim reverts also face financial hardship.
7. Within the Muslim society, Muslim reverts are often assisted with emotional supports and financial aids given to them. However, these aids are seen as inadequate to fully allow the Muslim reverts to live independently off the aids. There are instances where Muslim reverts are reported to be too dependent on Muslim society's monetary aids and hence lack the psychological motivation to be independent.

Muslim Reverts' Rights to Inheritance

8. There is a misunderstanding about the concept of inheritance for a Muslim convert as many believes that a Muslim cannot inherit the property of non-Muslims.⁹ Due to such misunderstanding, many Muslim reverts conceal their conversion to Islam for fear of being denied the right to inherit property from their non-Muslim families.¹⁰ The Government has established e-muallaf registry to remedy this problem,¹¹ but its implementation is yet proven.

⁵ Shamil Norshidi (8 Aug 2017) *What we can learn from Muslim converts in Malaysia*, Retrieved from <http://english.astroawani.com/malaysia-news/what-we-can-learn-muslim-converts-malaysia-151800>

⁶ Article 160 of the Federal Constitution.

⁷ Rosey Wang Ma (2010) Shifting Identities: Chinese Muslims in Malaysia, *Asian Ethnicity*, 6 (2), 89-107.

⁸ Sayyid Buhar Musal Kassim, Mohd Syukri Yeoh Abdullah & Zawiyah Baba (2013) A Survey Of Problems Faced By Converts To Islam In Malaysia. *Journal of Social Sciences and Humanities* 8 (1) 085-097.

⁹ Dr Jasni bin Sulong (2014) The Implications of Religious Conversion towards Muslim Inheritance under Malaysian Law. *International Journal of Liberal Arts and Social Science* 2 (9) 122-135.

¹⁰ Nurul 'Izzah Baharudin & Noor Lizza Mohamed Said (2017) *Method of Resolving Inheritance Problem of New Muslim Converts in Malaysia*. *Islamiyyat* 39 (1) 47-56.

¹¹ Bernama (13 Mar 2018) *E-muallaf portal serves as reference for new converts - Asyraf Wajdi*. Retrieved from <http://www.bernama.com/en/news.php?id=1444170>

9. This has caused further hardship when Muslim reverts passed on without informing their families of their conversion to Islam. In some cases, there were struggles and contests on the burial rites of Muslim converts.¹²

Discrimination Towards Muslim Reverts At Workplace

10. ACCIN has received many reports of Muslim reverts, who faced discrimination at their workplaces, due to their respective decisions to embrace the religion of Islam. The worth and value of an employee should not be determined by his religious belief and should be evaluated solely on his ability to perform his duties to the employer. The discrimination reported of includes ostracizing Muslim reverts, demoting and even dismissing them.¹³

Discrimination Of Muslim Reverts' Spousal Rights

11. In 2017, the Malaysian Parliament has amended Law Reform (Marriage and Divorce) Act 1976 [Act 167] wherein it is now compulsory for all marriages contracted by civil procedures to be dissolved in civil courts, even if the reason for the dissolution is because one of the parties has converted to Islam.¹⁴
12. The challenge of dissolving a civil marriage after conversion by a Muslim revert is because the petition for the divorce can only be filed with the consent of non-Muslim spouse through civil courts. As a result, Muslim reverts can no longer opt to adopt Islamic family laws as their personal laws in the dissolution of their marriage to non-Muslim spouses.

Discrimination Of Muslim Reverts' Parental Rights

13. A revert, who was married before his acceptance of Islam also faces difficulty especially in cases where his spouse has not converted to Islamic faith. The revert often faces hardship in relation to having equal right to the custody and upbringing of his children to the civil marriage.

¹² Malay Mail Online (17 June 2014) *After body snatching, Penang insists budding Muslim converts must notify kin*. Retrieved from <http://www.themalaymailonline.com/malaysia/article/after-body-snatching-penang-insists-budding-muslim-converts-must-notify-kin>

¹³ Sebastian Loh Xi Ving (20 Nov 2017) *Muslims and Malays face discrimination too*, Retrieved from <http://www.freemalaysiatoday.com/category/opinion/2017/11/20/muslims-and-malays-face-discrimination-too/>

¹⁴ Astro Awani (10 August 2017) *Law Reform (Marriage and Divorce) (Amendment) Bill 2017 passed*. Retrieved from <http://english.astroawani.com/malaysia-news/law-reform-marriage-and-divorce-amendment-bill-2017-passed-151956>

14. This scenario has become more intricate with the recent Federal Court decision in the case of *Indira Gandhi*, where the court took a simplistic approach of insisting that consent of both parents are required before a child could be converted.¹⁵
15. While such an approach, on the surface of it, may seem to ensure equality between both parents in determining the religious upbringing of their children, however upon closer inspection into the intricate issue, it is revealed that such approach is far too simplistic and would only act to discriminate against one of the parent who converts to Islam.¹⁶
16. This is because, to require a father or mother to obtain the consent of the other in cases where the parents are already in the midst of a divorce proceeding — and therefore expectedly are no longer on good terms — would almost certainly be impossible. Such a requirement would therefore amount to stripping away the fundamental rights of the father or the mother to determine the upbringing of the child.
17. The parent who converts to Islam will not have any opportunity at all at being heard, for the mandatory requirement of consent will obstruct the court from even entertaining any such application should such mandatory requirement not being fulfilled.
18. This is in direct contradiction to an earlier decision by the Malaysian Federal Court in the year 2008,¹⁷ wherein the court took a more harmonious approach, to allow a parent who converts to Islam to determine the religious upbringing of his children while according the non-converting parent the right to objection. Where such objection is raised, the matter would be resolved by the court on a case to case basis, taking into account all the surrounding facts, the opposing wishes of the parents as well as the paramount interest of the child.

¹⁵ Decision of Federal Court dated 29 January 2018 in the case of ***Indira Gandhi a/p Mutho v Pengarah Jabatan Agama Islam Perak & Ors and other appeals*** [2018] 1 MLJ 545.

¹⁶ Farhana Syed Nokman (30 January 2018) *Mixed reactions to Federal Court's decision in Indira Ghandi's case*. Retrieved from <https://www.nst.com.my/news/crime-courts/2018/01/330408/mixed-reactions-federal-courts-decision-indira-ghandis-case>

¹⁷ Decision of Federal Court dated 27 December 2007 in the case of ***Subashini Rajasingam v. Saravanan Thangathoray & Other Appeals*** [2008] 2 CLJ 1.

Recommendations:

- i. Call for the Government to enact anti-discrimination laws at work place to protect Muslim reverts
- ii. Call for the Government through its religious bodies to provide for a more comprehensive support system so as to ease the difficulty faced by a Muslim revert after conversion to Islam
- iii. Call for the Government to fully implement the *e-muallaf* registry and to educate Muslim converts on their rights after conversion
- iv. Call for the Malaysian Courts to take a more harmonious approach in deciding on disputes between Muslim reverts and their non-Muslim spouses
- v. Call for the Government to enact a law to ensure due consideration is given to the rights of Muslim reverts in cases for child custody and religious upbringing of the children
- vi. Call for the Malaysian Courts to deliberate on the issues of children's religious upbringing based on a case to case basis, as opposed to a blanket ban on unilateral conversion