

Malaysia: Children's Unilateral Conversion Cannot Be Defended

Saturday 21 May 2022, by [Collective / Multiple signers](#) (Date first published: 18 February 2022).

The Joint Action Group for Gender Equality (JAG) is deeply disturbed by the position taken by the Perlis State Mufti defending the unilateral conversion of the three minor children of single mother Loh Siew Hong by their father. This same position, we believe, is also taken by the Perlis Welfare Department and enforcement agencies which have repeatedly delayed the reunion of mother and children, in effect denying the mother's right to full custody awarded by the High Court.

The Federal Court of Malaysia, in the landmark case of Indira Gandhi a/p Mutho v. Pengarah Jabatan Agama Islam Perak & Ors [2018] (Indira Gandhi (FC)), has made it clear that conversion of minor children to Islam requires the consent of both parents. The Court has unequivocally interpreted Article 12(4) of the Federal Constitution, which states that "the religion of a person under the age of eighteen years shall be decided by his parent or guardian," as requiring the consent of both parents.

In other words, our apex court, interpreting the supreme law of our land, has decided that the unilateral conversion to Islam of minor children, by either parent cannot be defended. Shockingly, the actions of the Perlis State Mufti, its Welfare Department and related enforcement agencies continue in clear defiance of Loh Siew Hong's lawful rights. It also contradicts Malaysia's commitment to gender equality through the Convention on the Elimination of all forms of Discrimination (CEDAW). In 2006, the CEDAW committee concluding observation states that we must remove any inconsistencies between civil and Syariah law that impede women's rights to equality and non-discrimination. This was reiterated in its 2018 recommendations but has been clearly disregarded by the state and national institutions.

As a woman, wife, and mother, Loh Siew Hong has suffered enough. She experienced severe domestic violence in an abusive marriage, driving her to escape by seeking shelter. Despite being conferred full custody rights by the law, her children were taken away from her and converted to another religion without her knowledge and consent. She went through the nightmare of having to track them down, only to face one frustrating barrier after another upon finding them. She even offered to give up her basic right to freedom of religion by converting to Islam just to be reunited with her children. Such is the extent of her despair and desperation brought about by a system that has failed her repeatedly.

In reality, legal rights mean nothing if they are not given effect in practice. Despite the Federal Court's judgment, we are still grappling with the fact that Indira Gandhi has yet to be reunited with her daughter after 12 excruciating years. How many more women, children and families have to suffer like this before we see change?

JAG demands all arms of government - our courts, our lawmakers, and especially our executive bodies who are duty-bound by the rule of law - must enforce without further delay Loh Siew Hong's rights as a mother to have full custody, care and control of her children.

Endorsed by the following JAG member organisations:

1. All Women's Action Society (AWAM)
 2. Association of Women Lawyers (AWL)
 3. Family Frontiers
 4. Justice for Sisters (JFS)
 5. KRYSS Network
 6. Perak Women For Women Society (PWW)
 7. Sisters in Islam (SIS)
 8. Tenaganita
 9. Women's Centre for Change (WCC)
 10. Sarawak Women for Women Society (SWWS)
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