



Majlis Perundingan Malaysia Agama Buddha, Kristian, Hindu, Sikh dan Tao

Malaysian Consultative Council of Buddhism
Christianity, Hinduism, Sikhism and Taoism

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Gazetted Provision of Bahasa Malaysia Version of Section 95 (b) of the Administration of Islamic Laws (FT) Bill 1993 not passed by Parliament .

The Malaysian Consultative Council Of Buddhism, Christianity, Hinduism, Sikhism and Taoism (MCCBCHST) refers to the Statement made by the **Malaysian Syariah Lawyers Association (PGSM) (MalaysiaKini 2/7/2013)** that there was no major change brought by **Section 107 of the Administration of Islamic Laws (FT) Bill 2013** as there was already a similar provision, in existing **Section 95 in place**. The PGSM further stated that similar provision as **Section 95** existed in other **State Enactments, such as, Pahang (introduced in 2001), Malacca (2002), Selangor (2003) etc.**

The MCCBCHST wishes to state that these Enactments were passed very stealthily. The MCCBCHST was informed by some members of State Legislatives who had voted for the Enactments that they thought that the Bills were for matters relating to the Muslims and would not affect Non-Muslim Rights.

The MCCBCHST when became aware of these provisions protested very strongly against these State Enactments as being unconstitutional in certain provision like **Section 95 which allows one parent to convert a child.**

The MCCBCHST then prepared a **Protest Note dated 20th day October, 2005** pointing out that these State Enactments had infringed the rights of Non-Muslims and submitted it to the Cabinet, requesting it to **repeal** these objectionable provisions. On page 27 of the Memorandum, it stated:

“All legislation purporting to give only one parent the right to convert a child to Islam or only one parent the right to determine a child’s religion should be repealed.”

Now, because of the occurrence of such cases as, case of Shamalla, Indira Ghandi, Subashini and now Deepa (from Seremban), has created awareness of the problem among the public including the Law makers and thus the present clamour to have **Section 107(b) and Section 51 (3)(b)(x) & (xi) repealed.**

The MCCBCHST wishes to emphasise that once a Bill is tabled in Parliament, all its clauses are then subject to scrutiny and debate. One cannot say that this **Section 107(b) is similar to earlier Section 95, and is therefore unobjectionable**. Now we find that that was not even the case as Parliament has not intended S95 in its present form.

In the case of **LATIFAH BTE MAT ZIN v. ROSMAWATHI BTE SHARIBUN & ANOR [2007] 5 MLJ 101**, the Federal Court had observed that it was aware that certain States had passed laws that infringed on matters within the Federal List but had declined to name the State Enactments.

Section 95 (F.T. Bill – 1993). ENQUIRY NEEDED.

MCCBCHST has been made aware that Section 95 of the Administration of Islamic Laws (FT) Bill 1993, when introduced in Bill form by the Prime Minister in Parliament in 1993 was different from the one gazetted. The Bill was passed by Parliament with Section 95 of the Bahasa Malaysia version with the following provisions:-

S95 Bagi maksud Bahagian ini, seseorang yang tidak beragama Islam boleh masuk Islam jika ia sempurna akal dan –

- (a) Mencapai umur lapan belas tahun; atau
- (b) Jika ia belum mencapai lapan belas tahun, ibu bapa atau penjaga mengizinkan kemasukannya.”

However, when it was gazetted, there was a minor but far-reaching variation in its Bahasa Malaysia version for Section 95(b) permitting unilateral conversion of minors to Islam when Parliament had always intended dual parental consent, as the gazetted Bahasa Malaysia version reads:


“(b) jika dia belum mencapai umur lapan belas tahun, ibu **atau** bapa atau penjaganya mengizinkan kemasukannya.”

This completely alters the meaning of “parent” in Article 12(4). A thorough enquiry is required in this wrongful gazetting. Its coming to light at this pertinent moment may be divine intervention.

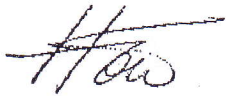
The MCCBCHST wishes to re-iterate that according to the **Constitutional Scheme** of things **Section 12(4) of the Federal constitution** should be read with **Article 160 (Eleventh Schedule)**, which would mean both the **Father and Mother** must consent to any change of religion of the child. **The proposed Section 107(b) and similar provisions in the State Enactments are therefore unconstitutional and must be withdrawn**. More so as Section 95 as intended and passed by Parliament in 1993 carried words **“IbuBapa” but when gazetted, words were changed to “Ibu atau Bapa”, thus completely altering the meaning**.



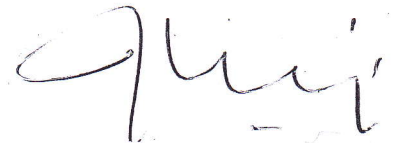
Daozhang Tan Hoe Chieow, AMS
President
MCCBCHST



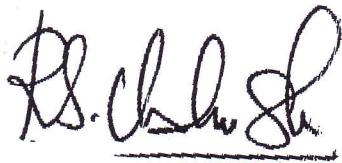
Sardar Jagir Singh
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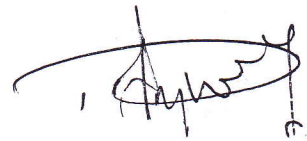
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