

**RIGHT TO CONVERT A CHILD:
A STUDY ON THE LEGAL STANDING IN MALAYSIA**

By

Amir Fitri Mohd Yusoff (2007130637)

Amalina Ismail (2007143799)

Afifah Munirah Awang Kechik (2007143787)

Aida Khairuleen Azli (2007143795)

Noor Aqilah Md Isa (2007144481)

Submitted in Partial Fulfillment of the Requirements
for the Degree of Bachelor of Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

April 2010

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENT

This research project has been carried out by a team which has included Amir Fitri Mohd Yusoff, Amalina Ismail, Afifah Munirah Awang Kechik, Aida Khairuleen Azli and Noor Aqilah Md Isa. Our contribution to the project has been through extracting relevant materials by doing a library-based and online database research in addition to conducting interviews with the relevant authority and individuals. Throughout the process of completing this project paper, we owed a word of thank you to everyone who had directly or indirectly contributed, lent their helping hands and shared their valuable thoughts and knowledge with us, without which this project paper would not be completed.

First and foremost, praise be to Allah SWT for His Blessings and Mercy in guiding us in pursuit of this endeavour and for bestowing us with strength and patience in completing this project paper.

Secondly, we would like to convey our utmost gratitude to our supervisor, Assoc. Prof. Dr. Md Amin Abd Rahman for all the guidance, support and patience he had with us during the period of completing this project paper.

Not to forget, Pn. Zabidah Ahmad, State Director of Legal Aid Department, Penang, the Syariah and Civil Officers of the Department En. Muhamad Sanusi Ishak, Pn. Yassinnisa Begum, Professor Madya Mohamed Azam Mohamed Adil, the Koordinator of Minor & Elective of Pusat Pemikiran dan Kefahaman Islam CITU UiTM and also to Mohamed Fouzi bin Haji Mohktar, Penolong Penasihat Undang – Undang (Syariah) of Selangor for their cooperation and kindness to be respondents in our interview.

Last but not least, we would like to thank our beloved parents for their endless support and prayers in ensuring that we give our best in completing this project paper.

ABSTRACT

The long existing misunderstanding over the religious status of minors when one of the parents converts to Islam has brought greater confusions among the people and has drawn criticisms from both Muslims and non-Muslims through the decisions of the court in a number of cases over the years and the recent proposed policy by the government as to the determination of religion of the child.

This is due to lack of understanding of the legal standing in Malaysia in relation to the right to convert a child for which this project paper intends to promote.

This is done by first clarifying the issue before hand through the conceptual understanding of right to convert a child. Having done that, we will proceed by identifying and analysing the legal standing and relates it to the practice in Malaysia with reference to local Civil and Syariah Laws and decided cases.

We will continue to discuss the effect of child conversion on other related issues such as the child's position, custody, maintenance and inheritance to evaluate the relationship between the right to convert a child and those issues before one could determine and justify who and why he/she should have such right.

In the end of this project paper, conclusion will be made and recommendations will be proposed based on the findings of the research with the hope to promote a better and clearer understanding on the issue and reduce intensity among the multi-religious community in this country.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	vi

CHAPTER ONE: INTRODUCTION

1.0	Introduction	1
1.1	Problem Statement	2
1.2	Objective of the Study	3
1.3	Methodology	4
1.4	Scope and Limitation	4
1.5	Significance of the Study	5

CHAPTER TWO: LITERATURE REVIEW

CHAPTER THREE: THE CONCEPT OF THE RIGHT OF CHILD CONVERSION UNDER ISLAMIC AND CIVIL LAW

3.0	Introduction	20
3.1	Conceptual definition about right to convert a child	20
	3.1.1 Child	20
	3.1.2 Right	22
	3.1.3 Conversion	23
3.2	The Current Practice in Malaysia	25

CHAPTER FOUR: THE EFFECTS OF CHILD CONVERSION TO ISLAM

4.0	Introduction	36
4.1	Position of the child	36
4.2	Maintenance	37
	4.2.1 The Position under Islamic Law	37
	4.2.2 The Position under Civil Law	39
4.3	Custody of the child	41
	4.3.1 The Position under Islamic Law	41
	4.3.2 The Position under Civil Law	44
4.4	Inheritance	47
	4.4.1 The Position under Islamic Law	47

4.4.2	The Position under Civil Law	50
4.5	Conclusion	53

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

5.0	Introduction	54
5.1	Recommendation	54
5.2	Conclusion	57

	Bibliography	60
--	--------------	----

	Appendices	64
--	------------	----

	Appendix 1: Interview Questions	64
--	---------------------------------	----

	Appendix 2: Statutes	68
--	----------------------	----