



**MEDIA STATEMENT
THE OFFICE OF THE CHILDREN'S COMMISSIONER OF THE
HUMAN RIGHTS COMMISSION OF MALAYSIA (SUHAKAM)**

EDITOR, NEWS DESK

FOR IMMEDIATE RELEASE

PRESS STATEMENT

KUALA LUMPUR (21 FEBRUARY 2022) - The Children's Commissioner of the Human Rights Commission of Malaysia (SUHAKAM), Prof Dato' Noor Aziah Mohd Awal (CC) commends the Kuala Lumpur High Court decision today in allowing the *habeas corpus* application by a mother who has been separated from her three (3) children by the father since 2019. The Court further ordered that the three (3) children who are now under the care of the Social Welfare Department be released forthwith to the sole custody, care, and control of the mother. Earlier, it was alleged that the children were unilaterally converted to Islam by the Perlis religious authorities, at the request of their father in July 2020, and that the mother was unaware of the conversion as she was recovering in a domestic abuse shelter. The mother has been unable to gain control of her children although the Court in December 2019 and March 2021, had given the mother full custody.

The CC wishes to highlight that the separation of a child from his or her parents violates Article 9 of the Convention on the Rights of the Child (CRC) and this right must be respected and taken into consideration in the assessment of the child's best interests.

In relation to the unilateral conversion, the CC reiterates the Federal Court's decision in the case of Indira Gandhi in 2018 that as far as children are concerned, conversion to another religion must be done with consent of both parents as provided by Article 12(4) of the Federal Constitution (FC). The word "parent" in Article 12(4) of the FC has been interpreted to include "both parents" and the Guardianship of Infants Act 1961 [Act 351] by virtue of Section 5 recognises that both parents have equal rights in respect of the child. Section 5(2) of Act 351 further provides that "the mother of an infant shall have the like powers of applying to the Court in respect of any matter affecting the infant as are possessed by the father". Thus, the consent of both parents is necessary in determining the religion of the child. It must be emphasized that unilateral conversion contravenes Article 12(4) of the FC.

The children have been denied the right to live with their mother for the past three (3) years and therefore, the CC appeals to all parties concerned to abide by the Court's decision and allow the children to be reunited with their mother.

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Professor Dato' Noor Aziah Hj. Mohd Awal, Children's Commissioner

21 February 2022

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