

PM: Custodial rights of non-Muslims guaranteed

NST-15/7/2004:1 Perdana

■ By M.K. Megan
news@nst.com.my

KUALA LUMPUR, Wed. — Custodial rights for non-Muslim parents over their children are assured under the country's present laws, Prime Minister Datuk Seri Abdullah Ahmad Badawi told the Dewan Rakyat today.

He said children's custodial rights among non-Muslims were governed by the Law Reform (Marriage and Divorce) Act 1976 and Child Custody Act 1961.

Section 51 of the Law Reform (Marriage and Divorce) Act allows a non-Muslim to annul the marriage if the spouse converts to Islam during the marriage.

Parents' rights were also safeguarded by Section 5 of the Child Custody Act, which accords rights to parents in terms of their children's education and the administration of their property, said Abdullah in a written reply to Chow Kon Yeow (DAP-Tanjong).

"Therefore, the regulations to provide protection for non-Muslim children and parents' rights are at the moment sufficient," he said. Abdullah added that during annulment proceedings, the court could make provisions for the care and upbringing of the children.

Chow had asked about the custodial rights of non-Muslim parents in the wake of the High Court decision in the case of Shamala Sathyaseelan against her former husband, Dr Muhammad Ridzwan Mogarajah.

Shamala, 31, a bank clerk in Alor Star, had initiated High Court proceedings to seek custody of their two children, whom her estranged husband had converted to Islam and obtained custody over from the Selangor Syariah High Court.

On April 17, 2003, the High Court issued an order in favour of Shamala, giving her *de facto* custody.

In response, the husband went to the Syariah Court for a separate custody order. On May 8, the Selangor Syariah High Court granted him *hadanah* (custody).

On May 6 this year, he obtained leave from the High Court in Kuala Lumpur to initiate committal proceedings against his Hindu wife, who he alleged had fled the country with their two children.

Judge Datuk Faiza Thamby Chik also granted an application by Dr Muhammad for an order to compel Shamala to return the children, Saktiawaran, aged three years and 11 months, and Theiviswaran, two years and five months, to the High Court's jurisdiction.

Chow also asked whether the Government would ensure that an individual's religion and beliefs would not be breached by any legislation.

Abdullah replied that the Government had always ensured freedom of religious worship in the country.

"At the moment there is no law legislated to restrict or affect religious practices or beliefs," he said. "This matter is accepted as provided for in Article 11 of the Federal Constitution, which guarantees the freedom of religion."

On Shamala's case, Abdullah said the court concerned had only decided which court had the power to hear the status of children converted to Islam by a father who had earlier embraced the religion.

"It was to hear if it should be in the Civil or Syariah court," Abdullah said.