



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

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

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### **MCCBCHST PRESS STATEMENT**

#### **REQUIREMENT FOR NON-MUSLIM PLACE OF WORSHIP TO REGISTER WITH THE REGISTRAR OF SOCIETY (ROS) & THE MINISTRY OF NATIONAL UNITY (MOU) IS LEGALLY FLAWED**

1. The Malaysian Consultative Council of Buddhism, Christianity, Hinduism, Sikhism and Taoism refers to the Ministry of National Unity letter dated 10/05/2021 wherein it stated that the Ministry of National Unity had been given the responsibility by the Government to give Government funding to Non-Muslim places of worship to carry out works such as repairs, maintenance and emergency works. The Ministry's letter added that Construction of new Non-Muslim places of worship were not within the scope of this scheme for allocations for small scale projects. We further note that the form "Lampiran 2" attached to Ministry letter asked for details including Registrar of Societies (ROS) registration number, a copy of which was to be attached to the Non-Muslim place of worship Application. An earlier guideline by the Ministry of National Unity had also required registration with the Ministry of National Unity as a condition of eligibility to apply for financial assistance to carry out minor project.
2. We welcome the announcement by the Ministry of National Unity vide its letter dated 10/05/2021 to give funding to Non-Muslim places of worship for carrying out small projects such as repairs, maintenance and emergency works. However, the 2 conditions imposed by the Ministry of National Unity that is (i) registration with ROS and (ii) with the Ministry of National Unity, as a pre-condition for applying financial assistance, is of great concern.

This is because the requirement of registration with the Registrar of Societies and the Ministry of National Unity will make them the governing authorities of the Non-Muslim places of worship which *is in direct conflict with the freedom given by the Federal Constitution to Places of worship to regulate themselves without the need to register or form an association before they could operate as provided for in Article 11(3)(a) of the Federal Constitution:*

**“(3) Every religious group has the right  
(a) to manage its own religious affairs;**

3. In view of the above, the MCCBCHST had written a letter dated 14 May 2021 to the Ministry of National Unity stating our reasons and objections to the requirement of registration of non-Muslim Places of Worship with ROS and the Ministry of National Unity as a condition for applying financial aid to carry out small projects such as repairs, maintenance and emergency works. The Ministry of National Unity in its letter dated 31 May 2021 did not address and reply to any of the 5 (five) facts which MCCBCHST had relied on as being the Constitutional and legal position of there being no requirement for non-Muslim Place of Worship to be registered with ROS or with any other Body before they could be regarded as lawful and could operate. The Ministry of National Unity had only alluded to there being a ministerial procedure for such requirement of registration. But the clear position of law is that any procedure to be lawful, it must be intra vires of the law and the Constitution. Any procedure that is ultra vires of the law will be Unconstitutional. Since the Ministry of National Unity completely failed to answer issues raised by the MCCBCHST, it had no choice but to release this statement.
4. The following are the facts which confirm the legal position of Non-Muslim places of worship that they are not required to be registered with the ROS or the Ministry of National Unity before they become lawful to operate:
  - (i) Article 11(3) gives right to every religious group to “manage” its own affairs and “establish and maintain” its institutions. There is no requirement or condition imposed in Article 11(3) or in any other part of

the constitution for Non-Muslim places of worship to register as an association or society before they could operate.

- (ii) (a) Under Section 6 of the Societies Act 1966 any local society can apply to the Registrar of Societies for registration. A society is defined by section 2 of the Act as including: “any club, company, partnership or association of seven or more persons.”

The section 2 further provides that this definition of “Society” does not include: “any company or association constituted under any written Law”. Thus places of worship do not fall under this definition.

- (b) Despite the constitutional position of the places of worship not requiring any registration but some on their own volition due to some pressing circumstances have registered as follows: with Registrar of Societies; some churches operate under Act of Parliament; some registered with company commission; some operating under a Trust; some under Prime Minister’s Department under a Trust, etc.

- (iii) A meeting was held at the Kementerian Wilayah Persekutuan (KWP), Putrajaya on 04/09/2015 to discuss the position of Non-Muslim places of worship. It was attended by representatives from the KWP, officials from the Registrar of Societies, representatives from the MCCBCHST and others. The MCCBCHST representative had explained that places of worship owed their existence to and operated legally under Article 11(3) (a) of the Federal Constitution without need to register with any authority.

After lengthy discussion the meeting had agreed that the places of worship did not come under the ROS and that if a Body like Badan Penasihat Agama or Badan Khas was created for Non-Muslim places of worship then ROS could release those places of worship registered under ROS to migrate to this new Body. The following decision was in the minutes of the meeting:

“Pada masa ini, pihak ROS sedang mengkaji dan meneliti dari pelbagai aspek berhubung cadangan untuk mengeluarkan skop pemantauan RIBI melalui elemen pendaftaran daripada tanggungjawab agensi berkenaan dan diserahkan kepada Badan Penasihat Agama sebagaimana yang dipraktikkan oleh Jabatan Agama Islam di negeri-negeri lain.”

- (iv) In reply to a query by the Mar Thoma Church, the Attorney General Chambers (AGC) stated that the Mar Thoma Church was not Governed by the ROS and thus need not register with it or with any other Body (F.M.T. June 26, 2019). The head of the AGC’s Constitutional and Administrative Law Unit Mr. Shamsul Bolhassan said:

“Article 11 (3)(a) also states that every religious group has the right to establish and maintain its institution for religious or charitable purposes. No conditions are found in Article 11 or indeed the rest of the Constitution that require a religious group to form a legal association before they can be regarded as lawful.”

(v) The right to freedom of religion and to manage one's own religious affairs is regarded so sacrosanct that even during an Emergency this religious right cannot be taken away. This is provided for in Article 150 relating to proclamation of Emergency where under Number (6A) an exception is made to the effect that the right relating to "religion, citizenship, or language," cannot be taken away by legislation even during an Emergency.

5. In view of the above, the MCCBCHST had appealed to the Ministry of National Unity vide letter dated 14/05/2021 to rescind the requirement for Non-Muslim places of worship to register with the ROS and the Ministry of National Unity as a condition for applying financial aid to carry out repairs, maintenance and emergency works to their places of worship. We hope that the Ministry of National Unity will follow the practice of other Government Departments and Ministries which recognise the letter of support from the Heads of religious organisations in lieu of registration with ROS. As explained at paragraph 4 above, the requirement of registration with ROS and Ministry of National Unity is legally untenable.

**<End of Statement>**

Statement issued and endorsed by:



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