

**CIVIL ACTION FOR RAPE  
IN MALAYSIA**

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## **ABSTRACT**

This research paper analyzed on the viability of implementing civil action for rape in Malaysia with references made to other countries: the United States, the United Kingdom and, Canada. Basically in Malaysia, there were rarely civil actions taken for the crime of rape unlike in the Western Countries. This research paper is to help understanding the civil action for rape better and to determine the viability of taking such action in Malaysia. Based on the research done, some recommendations were made with the intention to improve the position of victims of rape when it comes to getting monetary compensation. The first chapter goes into the essences and the structures of the research. In the second chapter, it focussed on the position of law in Malaysia regarding compensating victims of rape, the advantages of taking civil action for rape and also, the disadvantages of taking such action. The third chapter discussed on the position of civil action for rape in the United States, the United Kingdom and, Canada. Apart from that, Chapter Four lays out findings of the research based on several interviews conducted. Lastly, Chapter Five provides the conclusion and also some recommendations for the implementation of civil action for rape in Malaysia

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# CHAPTER ONE

## INTRODUCTION

### 1.0 Introduction

Rape is a heinous crime committed towards women. Every day an average of four women are raped.<sup>1</sup> But we rarely hear or read about all of these cases, only the sickeningly brutal ones involving a child or ending in murder which captured the attention of media.<sup>2</sup> Many of the accused rapists had been caught and tried. Some of them were convicted but some others had been acquitted.

In Malaysia, Section 426 (1) of the Criminal Procedure Code provides for the courts' discretion to order the convicted person to compensate the victims of crime. Sadly until today, none of the rape victims had been rewarded by the Malaysian courts. Besides the above provision, there is no other law that helps the victims to be compensated.

In other countries, victims of rape are allowed to take civil action against the rapists and claim compensation in monetary forms. The civil action against rapist is fast gaining momentum around the world especially at the western countries. Cases of rape had been successfully brought up in the civil court in countries such as the United Kingdom, the United States of America, and also Canada.<sup>3</sup> In Canada, a commentator has referred lawsuits for rape, incest, and child sexual abuse as 'an epidemic'.<sup>4</sup>

Nevertheless in Malaysia, there are no cases where rape victims had filed a civil action against the rapist. This paper was written to enlighten readers concerning civil action for rape and other issues surrounding it. It is of the time for the victims

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<sup>1</sup> Yoon, Chin Mui. (2008). 'She was ripe for the plucking', The Star. Retrieved from <http://www.thestar.com.my/story.aspx?file=%2F2008%2F8%2F3%2Flifefocus%2F1710444&sec=lifefocus>.

<sup>2</sup> Ibid.

<sup>3</sup> Temkin, Jennifer. (2002). *Rape and the Legal Process* (2nd ed.): Oxford University Press, 329 at p 333.

<sup>4</sup> Linden, Allen. (1997). *Canadian Tort Law*. Toronto: Butterwoth, at p 44.