

**THE CONFLICT OF MUSLIM LAW AND ADAT PERPATIH
ON CONTRACT OF MARRIAGE, DIVORCE AND INHERITANCE**

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PROJECT PAPER

The Conflict of Muslim Law and Adat Perpatih on Contract of Marriage, Divorce and Inheritance.

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PREFACE

The aim of this thesis is to highlight the conflicts and relationship that exist in the administration of Muslim Law in Negeri Sembilan as opposed to the pre-existing 'Adat Perpatih' on contract of marriage, divorce and inheritance and to find the possibilities of reconciliation if any.

As far as 'Adat Perpatih' is concerned, marriage between person belonging to the same clan is regarded as incestuous and is strictly prohibited whereas according to Muslim law it is permitted as long as it fulfills all the conditions or requirements imposed by Muslim law. On divorce, under 'Adat Perpatih', if there is 'harta sepencarian', it will have to be distributed equally but the 'harta pusaka' will remain with the wife. Adat prescribes a fair distribution of property between the husband and the wife, if a divorce is decided upon;

"What a man has got by his wife remains with her clans,
What the husband brought goes back to him,
Property in partnership is split up,
The common property acquired by a man and wife's joint labour is equally divided,
Any loss or profit on the wife's estate is a matter to her clan,
The man's person is restored to his own clan."

This study is to acknowledge the distinction of distribution of property between adat and Muslim law because there are some contraversial points of view and this study is to clarify those

CHAPTER 1

INTRODUCTION

The law in Malaysia and Singapore relating to marriage and divorce affecting Muslims is the Muslim Law as modified by Malay Custom. A number of enactments and ordinances in the various states provide for the application and administration of Muslim law and for the registration of Muslim marriages and divorces.

The muslims are broadly divided as far as doctrine and law are concerned into two groups, the Sunni and the Shiah groups. The differences between the groups, which originated in political differences have grown into differences in religious doctrine and law, though both group acknowledge the authority of the Holy Quran and the prophethood of Mohamed. The Shiah schools of law are followed mainly in Iran and Yemen. The Sunni group is made up of the four orthodox schools which are named after their founders, the Hanafi school after Imam Abu Hanifa, the Maliki school after Malik bin Anas, the Shafii school after Imam Shafiee and the Hanbali school after Imam Ahmad bin Hanbal. All the four Sunni schools of law are regarded as orthodox and authoritative. In Malaysia and Singapore the most prevalent school is the Shafiee school which is