

**Regulating Consent and Age Capacity in
Child Marriage for Muslims in Malaysia:
A Legal Analysis**

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Abstract

This research focus specifically on child marriage of Muslim in Malaysia as the law relating to the marriage of a non-Muslim are so rigid that there was no vagueness that would open for the possibility of any problem to arise. This research would start by providing the true story behind people's perception on child marriage and the essential elements of child marriage in Malaysia. This research would also provide the laws on child marriage as well as its applicability on the current situation together with the legal position of child marriage in other countries. This research would be concluded with the recommendation on how such issue of child marriage can be resolved in order to reduce the increase number in the problem relating to child marriage as this issue still goes untreated or unsolved unless a certain action are taken or a law are implemented in order to overcome this problem.

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CHAPTER ONE

Child Marriage in Malaysia and The underlying story behind it

1.0 Introduction

Child Marriage can be defined as a marriage before the age of 18 which is one form of a violation of human rights, compromising the development of girls and often resulting in early pregnancy and social isolation, with little education and poor vocational training reinforcing the gendered nature of poverty.¹ Most child marriages are also forced marriages, where the consent of the child is not considered before the consummation of the union. While boys are affected by child marriage, the issue impacts girls in far larger numbers and with more intensity. In Malaysia, the laws governing child marriage is vary in accordance within the states as Islamic Laws are conferred under the State Legislative power to make laws in accordance with Article 74(2) of Federal Constitution² and for non- Muslim it is governed under Section 10 of Law Reform (Marriage and Divorce) Act 1957.³ However for the purpose of this research, it focuses only on Muslims as there are more issues to be discussed compared to non-Muslims as to limit the area of research.

1.1 Background

The legal age of marriage for non-Muslims is 18.⁴ Non-Muslim females are permitted to marry between the ages of 16 and 18 with the consent of the Chief Minister. Under *Syariah* law, Muslim girls can marry at the age of 16 and boys at the age of 18; however

¹ Jeffrey Hardy Quah. (2010, May 24). Stopping child marriage in malaysia. The Star Online. Retrieved from penangmonthly.com/stopping-child-marriage-in-malaysia

² Article 74(2) of Federal Constitution of Malaysia

³ Law Reform (Marriage and Divorce) Act 1957.

⁴ Section 10 of Law Reform (Marriage and Divorce) Act 1957