

**ABANDONED BABIES: WHERE DOES THE RESPONSIBILITY LIE?**

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The students/authors confirm that the work submitted is their own and that appropriate  
Credit has been given where references has been made to the work of others.

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## ABSTRACT

This research project has been conducted by Ahmad Hazwan bin Mustafa, Juhfaidzal Azwad Juhari and Mohd Fathanah bin Shukri Saghiri and has been supervised by Puan Sivameenambigai d/o Veeriah.

This research is pertaining abandonment of children which is currently a universal problem and appears to be taking alarming proportion. The growing concern seems to stem from a realization that despite the legal framework, babies are being abandoned, harmed and sometimes dying as a result. In addition, the research project will be focused on where the responsibility lies in providing care for the children? Does the responsibility lie in the hands of welfare houses or in the hands of parents or only mothers in cases involving illegitimate children? Analysis will also be made to see whether the new-borns are sufficiently protected by the existing law provided in Malaysia.

Hence, the objective of this study aims to analyze whether Malaysia Law has sufficient punishment for the offenders who commit baby abandonments in both married and unmarried couple scenarios. It also aims to determine the legal perspective from Islamic point of view regarding this issue. In addition, this research will examine whether the Child Act 2001 provides adequate provisions to curb the issue of child abandonment including punishment and responsibility aspects. In analyzing so, Islamic perspective will also be looked into to analyze possible solutions.

This research will also look into the Guardianship of Infants Act 1961 as legal authority with regard this issue. The law in United Kingdom and United States will be looked into briefly to understand their legal position pertaining to baby abandonments and interesting developments in the respective countries.

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# CHAPTER ONE

## INTRODUCTION

### **1.0 General Introduction**

Child is the best award for a husband and wife ever. This is because the child amounts to happiness for the whole family. Furthermore, a child will be the heir for his/her parents' generation and later when they grow up, they will take care of their parents as their payback times. In Islam, child is the most valuable asset for the parents<sup>1</sup>. Prophet Muhammad (S.A.W) also declares that a child has a high status at the hereafter which can save their parents from being punished at the hereafter.

However, lately there have been some parents who do not love their children. They abandon their children without thinking the effects and in fact some of them were willing to throw away their babies at the pavement, drainage, and even river without any sense of sympathy. Assistant Chairman of Malaysian Islamic Practical Institute (ILIM), Zamihan Mat Zin Al-Ghani, states that based on the child and baby abandonment incidents nowadays, one can observe that the situation now is growing worse and the act of killing a baby is a very sinful act<sup>2</sup>.

Previously, during the prophet era, they only killed and buried their female babies, but now the situation has changed where both boy and girl babies are being abandoned by some parents and in some cases, the abandonment had led to death. Zamihan also states that baby abandonment done either by abortion or after the birth is a very sinful and the offender can be punished equivalent to a murder offence<sup>3</sup>. "Those

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<sup>1</sup> Idris Musa, "Anugerah Anak" from the World Wide Web: <http://www.mymetro.com.my> (Retrieved July, 27, 2008.)

<sup>2</sup> Ibid

<sup>3</sup> Ibid