

**A LEGAL STUDY IN MALAYSIA ON THE RIGHT OF CHILDREN TO DECIDE  
THEIR OWN RELIGION UNDER THE LAW REFORM (MARRIAGE AND  
DIVORCE) ACT 1976.**

By

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We confirmed that the work submitted is our own and that appropriate credit has been given  
where reference has been made to the work of others.

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## ABSTRACT

The legal system in Malaysia is a dual system, based on both English Common Law and Islamic Law. Civil Courts have jurisdiction over the majority of laws, including contracts, torts, property, crime and constitutional and administrative matters. The Syariah Courts which are established and regulated by the states, have jurisdiction over Islamic family law matters. Article 121 (A) of the Federal Constitution, introduced in 1988 by constitutional amendment, states that the civil courts have no jurisdiction in matters that fall within the Syariah court's jurisdiction.

In general, the welfare of the child is the paramount consideration in Islamic custody cases throughout Southeast Asia. The mother or another female relative is generally presumed to be the best person to maintain custody of young children, while older children, those who have reached the age of mumaiyiz (discernment), are given a choice in some jurisdictions. For mother who have remarried or are converts to Islam, however custody may not be given to the mother even in the case of young children.

These are landmark decisions that seek to finally resolve a host dilemma faced by the non converting spouse after the partner convert the children as well, seize the matrimonial properties, start a war for custody and religion of the children and seek to annul their civil law marriage in the Islamic court.

The work includes a wide catalogue of footnotes and reference, which on the one hand provides the reader with an access to invaluable sources and on the other hand provides a researcher with invaluable leads for future research.

This research perhaps can constitute a valuable contribution to Faculty of Law and would be a good reference to student and teacher alike.

## TABLE OF CONTENTS

Acknowledgement	iv
Abstract	v

### CHAPTER ONE: INTRODUCTION

1.0	Background	1
1.1	Research Question	5
1.2	Objective and Scope	9
1.3	Significance of Research	10
1.4	Scope and Limitations of Research	12
1.5	Research Methodology	13
1.6	Conclusion	15

### CHAPTER TWO: LITERATURE REVIEWS A LEGAL STUDY IN MALAYSIA ON THE RIGHT OF CHILDREN TO DECIDE THEIR OWN RELIGION UNDER THE LAW REFORM (MARRIAGE AND DIVORCE) ACT 1976.

2.0	Introduction	16
2.1	Conversion of A Spouse to Another Religion	16
2.1.1	Definition of Conversion	16
2.1.2	Effect of Conversion	18
2.1.3	Rights of Converted Parent	22
2.1.4	Rights of Children	28
2.1.5	Right of Children under Islamic Prospective	34

### CHAPTER THREE : LAW INVOLVED IN A LEGAL STUDY IN MALAYSIA ON THE RIGHT OF CHILDREN TO DECIDE THEIR OWN RELIGION UNDER THE LAW REFORM (MARRIAGE AND DIVORCE) ACT 1976.

3.0	Federal Constitution 1957	43
3.1	Law Reform (Marriage & Divorce) Act 1976	45
3.2	Child Act 2001	47
3.3	Guardian And Infant Act 1961	50
3.6	Islamic Law	56

### CHAPTER FOUR: FINDINGS

4.1	Lacunae in the Law Reform (Marriage & Divorce) Act 1976	60
4.2	Lacunae in Islamic Law	61
4.3	Interpretation of Article 12(4) of Federal Constitution 1957	62

## **CHAPTER FIVE: RECOMMENDATIONS AND CONCLUSIONS**

5.1	Recommendations	64
5.2	Conclusion	65
	Bibliography	66
	List of Cases	69