

**A CRITICAL STUDY ON THE NEED FOR CONJUGAL VISIT FOR MARRIED
FEMALE CONVICTED PRISONERS IN MALAYSIA, WITH SPECIAL
REFERENCE TO THE POSITION OF THE UNITED STATES OF AMERICA**

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

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Abstract

This research would cover the need of conjugal visit for married female convicted prisoners in Malaysia. The reason for us to embark upon such research is due to the fact that there is no existing right on conjugal visit in Malaysia. Our research is an attempt to consider the need of such right to be implemented in Malaysia, in consideration of the lessons that we could learn from other countries such as the United States that has adopted conjugal visit for quite some time.

In Malaysia, the rights of the convicted prisoners for their basic needs are governed in the Prison Ordinances of Malaysia and Lock-up Rules 1952 (POL) and the Prison Act 1995. However, the right to conjugal visit is not included in the statutes. A conjugal visit is a scheduled extended visit during which an inmate of a prison is permitted to spend several hours or days in private, usually with a legal spouse.

Conjugal visit helps in the rehabilitation process of the prisoners. It can also be seen as a good tool in maintaining inmates' relationship with their respective spouses and families, but it should be noted that most of the inmates' marriages are already on the rocks when they enter into prison. At the same time, providing such visit would harm the purpose of prison that is, to punish the inmates.

We believe that conjugal visit is not necessary to be provided for married female convicted prisoners in Malaysia even as a mere privilege, because the disadvantages outweigh its values. However, if conjugal visit were to be provided to such prisoners, the Malaysian Prison Department should use experiences from other countries such as the USA as guidance. However, Malaysian culture, custom and religion must be taken into consideration.

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CHAPTER ONE

INTRODUCTION TO THE RESEARCH

1.0 Introduction

This particular chapter of the research paper will emphasise on the background of the study followed by the research question. Next, we will be focusing on the objectives of the study and the significance of the research. We will also discuss on the limitations of the research and its methodology. Plan of the study will also be included, and lastly, a conclusion on the chapter will be made.

1.1 Background

'Female convict' is a term used when a female has been found guilty of a crime. Article 5 of the Federal Constitution states that no person shall be deprived of his life or personal liberty in accordance with the law while Article 8 of the Federal Constitution states that every person are equal before the law and should be entitled to the equal treatment and protection of the law.¹

The movement for prisoners' rights is based on the principle that, even though they are deprived of liberty, they are still entitled to basic human rights.² Humanitarianism is based on a view that all human beings deserve respect and dignity and should be treated as such.³ Therefore, humanitarians work towards advancing the well-being of humanity as a whole. A convicted female prisoner who is a wife and a mother should not stop her roles and responsibilities even though she is in prison. Under the rehabilitative theory, it seeks by way of education or therapy, to bring a criminal into a more normal state of

¹ Federal Constitution of Malaysia

² Naresh Kumar, *Constitutional Rights Of Prisoners*, Mittal Publications, 1986, India

³ Julie Mertus, "The Impact of Intervention on Local Human Rights Culture: A Kosovo Case Study" (2001, December) *The Global Review of Ethnopolitics*, <http://www.ethnopolitics.org/ethnopolitics/archive>