

Transsexual Marriage: A Comparative Study On The Law In Malaysia And United Kingdom

By

Nik Fazlina Binti Nik Abdul Aziz (2004328694)

Norsyazrin Syakira Binti Razali (2004328703)

Submitted In Partial Fulfillment of the Requirements
for the Bachelor in Legal Studies (Hons)

University Technology of MARA

Faculty of Law

April 2007

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 works of others.

ACKNOWLEDGEMENT

All praise due to God Almighty Allah S.W.T, for giving us the patience and strength to complete this final project.

First and foremost, we would like to take this opportunity to extend our heartfelt gratitude to Encik Nazim Ganti Shaari, our supervisor for his continuous guidance, invaluable advices, constructive comments and patience during the course of this project. We would have never succeeded in completing this project without your mentorship.

We would like to take this opportunity to express our gratitude and appreciation to all Law Faculty staff, especially our lecturer, Associate Professor Norha Abu Hanifah for her guidance and assistance throughout the semester in order to make sure that the progress of this project paper smooth.

A special thank you to the few people that we have interviewed for the purpose of this project paper. Your co-operation and help will always be remembered, for giving us the insight in this topic.

We would like to extend the gratitude to our family for their continued support and eternal encouragement to ensure the completion of this project paper.

Last but not least, our heartiest appreciation to all our friends and those who have directly or indirectly helped us to complete this project paper.

Thank you very much.

ABSTRACT

In this project paper, we intend to do a comparative study in legal perspective, on transsexual marriage between two countries, Malaysia & United Kingdom. We will start by defining the term transsexual and look at the history of transsexual in both countries. We will show that transsexual is never accepted in Malaysia, but in United Kingdom, transsexual is starting to be recognized after the Gender Recognition Act 2004 was formed. Then, we will explore in detail the topic of transsexual marriage, its acceptance by the society in both countries and the impact to the mass.

Next, we will examine the legality issues with transsexual marriage in both countries and we will show that Malaysia has never recognized transsexual marriage and hence, raising some issues. United Kingdom on the other hand, has acknowledged transsexual marriage as a civil partnership. This has solved the issue of providing the rights of the couple and society recognition.

Then, we will discuss the possibilities of legalizing transsexual marriage in Malaysia and the impact to the society. The main focus is on morality and family institution. Finally, we will recommend whether transsexual marriage should be legalized or not based on the findings.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
List of statutes	vi
List of cases	vii

CHAPTER ONE: INTRODUCTION

1.0 Introduction	1
1.1 Problem statement	3
1.2 Objective of the study	4
1.3 Literature review	5
1.4 Methodology	8
1.5 Limitation	9
1.6 Significance of the study	10
1.7 Provisional plan of research	11

CHAPTER TWO: OVERVIEW OF TRANSSEXUAL

2.0 Introduction	12
2.1 Definition of transsexual	12
2.2 Sex re-assignment surgery	13
2.3 Difference between transsexual, transvestite and transgender	14
2.4 History of transsexual in Malaysia	14
2.5 History of transsexual in United Kingdom	15
2.6 Conclusion	17

CHAPTER THREE: TRANSSEXUAL MARRIAGE

3.0 Introduction	18
3.1 Definition of marriage	18
3.2 Transsexual marriage in Malaysia	19
3.2.1 Muslim	19
3.2.2 Non-muslim	20
3.3 Transsexual marriage in United Kingdom	21
3.4 Issues on transsexual marriage	22
3.4.1 Malaysia	22
3.4.2 United Kingdom	23
3.5 Conclusion	24

CHAPTER FOUR: LEGALITY ISSUES WITH TRANSEXUAL MARRIAGE

4.0	Introduction	25
4.1	Validity of transsexual marriage	25
	4.1.2 Effect to muslim	25
	4.1.3 Effect to non-muslim	26
4.2	Status of transsexual marriage	27
	4.2.1 Malaysia	28
	4.2.3 United Kingdom	28
4.3	Interview with transsexuals	29
4.4	Conclusion	30

CHAPTER FIVE: ANALYSIS ON TRANSEXUAL MARRIAGE

5.0	Introduction	31
5.1	Basis to legalise	32
5.2	Basis to illegalise	36
5.3	Morality point of view	39
5.4	Conclusion	42

CHAPTER SIX: CONCLUSION

6.0	Conclusion	43
6.1	Justification	43
6.2	Recommendation	44
	Bibliography	46
	Appendices	48
	Appendix 1: Interview Details	48
	Appendix 2: Civil Partnership Act 2004	51
	Appendix 3: Gender Recognition Act 2004	52
	Appendix 4: Minor Offences Act 1955	60