

**UNIVERSITI TEKNOLOGI MARA**

**THE RIGHTS OF AN UNBORN CHILD  
BEYOND ABORTION IN MALAYSIA**

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**MSc**

**February 2018**

## **AUTHOR'S DECLARATION**

I declare that the work in this dissertation was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the results of my own work, unless otherwise indicated or acknowledged as referenced work. This thesis has not been submitted to any other academic institution or non-academic institution for any degree or qualification.

I, hereby, acknowledge that I have been supplied with the Academic Rules and Regulations for Post Graduate, Universiti Teknologi MARA, regulating the conduct of my study and research.

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## ABSTRACT

The legal status of an unborn child remains ambiguous both in foreign jurisdictions as well as in Malaysian law. The current legal stance recognises the analogous right to life for foetus but there are contrary views on the stage of development *in utero* in which this recognition of ‘personhood’ and the absolute right to life should be given. A number of literatures are available covering issues related to the rights of the unborn child in the context of abortion. Abortion is generally prohibited under the Malaysian Penal Code because it is equivalent to taking the life of a human being while still in the process of development. It can be allowed though, but only in certain circumstances. In the Malaysian context, abortion impacts directly on the rights of both an unborn child and a potential human being to existence. It is an accepted norm in any civilised society that life of a human being is unique and blessed by divine, and no one is allowed to put an end to that life unless for very specific reason permissible by law. However, the law might be limited and do not address special circumstances with regards to the rights and privileges of the unborn child beyond the context of abortion. The main objective of this study is to examine the rights of an unborn child beyond the context of abortion and to suggest whether or not he or she deserves the independent legal status of a ‘person’ or ‘patient’. This study will examine the Malaysian law, foreign legislations, international acts and court decisions by employing a doctrinal analysis and comparative analysis. This study also examines whether the foetus has any legal rights in order to justify abortion from legal and medical perspectives, to discuss the ethical issues including women’s rights and mother’s obligation towards the foetus and whether or not a foetus should be recognised as a victim of crime. This study concludes with proposed recommendations that might be feasible to ensure that children’s right to live are well safeguarded even before they were given birth to specifically in the Malaysian setting.

## **ACKNOWLEDGEMENT**

My sincerest gratitude to my supervisors, Dr. Noraiza Abdul Rahman and Dr. Akmal Zulayla Mohd Zahid for the valuable feedback, supervision as well as commitment and engagement throughout the undertaking of this master dissertation. Furthermore I would like to thank Dr. Aimi Nadia Mohd Yusof as the main coordinator of the course who has given me full support and encouragement throughout my course in UiTM. Not to forget all the lecturers of the programme who had contributed their knowledge and shared their experience during the duration of the course.

I would also like to express my gratitude to all the Post Graduate staff in particular to the Deputy Dean, Prof. Dr. Azian Abd Latiff for having such faith in me and allowing me to undertake this master programme and subsequently embarking in such a memorable journey.

I would also like to thank my husband, Dr. Rafiz Abdul Rani, my eternal backbone, my parents, Dr. Paridah Abd Samad and Dr. Hassan Ibrahim, both as my inspirational motivator and conscience in my life and my sister, Dr. Tidi Maharani Hassan who has given tremendous support throughout the entire process of this master programme.

Lastly to my batch mates who have always been very supportive and shown wonderful comradeship during the course.

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