

# **CUSTODY OF CHILDREN IN DOMESTIC VIOLENCE CASES**

**By**

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

**Universiti Teknologi MARA**

**Faculty of Law**

**December 2013**

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.

## **ABSTRACT**

This research traces the custodial status of child victim in domestic violence cases. The focus is on protecting the interest of the child victim by ensuring that the statutory provisions dealing with the issue of domestic violence in Malaysia are sufficient to protect the child victim. The statutory provisions that have been considered include the Malaysian Domestic Act 1994 (DVA), the Malaysian Child Act 2001 (CA), the Guardianship of Infants Act 1961 (GIA), and the Law Reform of (Marriage and Divorce) Act 1976 (LRA). Comparison was made between four situations in domestic violence cases where the issue of custody of the child victim might arise. The first situation concerns on the custodial status of the child victim when both parents are abusive. The second situation concerns on the custodial status during the continuance of the period of IPO. The third situation is when domestic violence leads to the divorce of the parents. The fourth situation is when domestic violence happened but there was no divorce between the parents. Until today, there is no specific provision made in relation to the custody of the child victim in domestic violence cases. Thus this research will discuss the issue on the custodial status of the child victim in such cases in order to provide a better protection for the children.

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# **CHAPTER 1: INTRODUCTION**

## **1.0 INTRODUCTION**

This chapter concerns about the proposal of this research. This chapter will discuss on the background of the title, research questions, objectives and significance of this research. This chapter will also discuss on the scope and limitations of this research as well as the research methodology used in conducting the research. The outline of structure of the paper will also be included.

## **1.1 BACKGROUND**

We would like to conduct a research on the loopholes in the Malaysian Domestic Violence Act 1994 (DVA), where it does not provides for the custody of children in domestic violence cases. Thus, our research aims to study on these matters in order to provide a better protection for the children through recommendations for the improvement of the current law on domestic violence.

The issue of domestic violence has emerged as one of the primary public policy concerns in countries around the world. One emerging concern in the area of child custody is how to determine the right of custody when domestic violence becomes an issue. In Malaysia, the Domestic Violence Act (DVA), enacted in 1994, is widely recognized as an important measure in the broader goal to end domestic violence in Malaysia. In addition to acknowledging domestic violence as a public concern, the DVA aims to provide greater legal protection to domestic violence victims.

However, the DVA is silent on the issue of custody of children in domestic violence cases. Therefore, we would like to conduct our research in order to resolve these