

**A LEGAL STUDY ON ENTICEMENT AND SECTION 498  
OF THE PENAL CODE IN MALAYSIA**

**BY**

**NOOR FARAHIN IBRAHIM (2008412348)**

**QATRIN NADA BINTI HARUN (2008408994)**

**RABIATOL ADARIAH BINTI NORDIN (2008408996)**

Submitted in partial fulfillment on the requirements for the degree of Bachelors in  
Legal Studies (Honours)

**UNIVERSITY TECHNOLOGY MARA (UiTM)**

**FACULTY OF LAW**

**OCTOBER 2010**

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**

The recent case of Daphne Iking in 2009 had brought Section 498 of the Penal Code on the law on enticement, to light. Before this case, not many were aware of the existence of such a law in Malaysia since it is seldom invoked. A debate has arisen on whether Section 498 is still a valid and applicable law. Some had viewed it as an archaic and unequal law that is inconsistent with the Federal Constitution. While others had supported the existence of Section 498 since it is deemed that such a law contribute towards protecting the family institution. Thus, this research is done with the view of finding out the relevancy and validity of Section 498 under the Federal Constitution.

## **ACKNOWLEDGEMENT**

First and foremost, we would like to thank God Almighty for giving us the strength, guidance and health to do this project paper until it successfully done.

Our deepest gratitude goes to Assoc. Prof Hjhh. Mahanum Adam, our supervisor for her assistance and guidance without which, we could not have completed this research. We had stumbled into some difficulties in completing this task, but she has taught us patiently and gave us valuable advices. She had assisted us in many aspects of this research and encouraged us to work efficiently and diligently. We are greatly indebted to her.

Next, we would like to confer our gratitude to others who had sacrificed their time in helping us to complete this research. Special thanks to Professor Datuk Dr. Shad Saleem Faruqi, a Constitutional Law expert for his participation in answering our interview questions and providing valuable insights with regards to our topic of interest.

We would also like to thank our parents and family members for supporting us through thick and thin and providing us monetary support to complete this task. We are also grateful to all the advices that they have given us.

Last but not least, we would like to express our thanks to our friends from the Law Faculty of UiTM for their help and moral support.

## TABLE OF CONTENTS

ACKNOWLEDGEMENT	i
ABSTRACT	ii
TABLE OF CONTENTS	iii-v
LIST OF CASES	vi
LIST OF STATUTES	vii
CHAPTER 1 : INTRODUCTION	
1.0 INTRODUCTION	1-3
1.1 PROBLEM STATEMENT	3-4
1.2 OBJECTIVE OF THE STUDY	4-5
1.3 METHODOLOGY	5-6
1.4 LIMITATION	6
1.5 SIGNIFICANCE OF THE STUDY	7
CHAPTER 2 : LITERATURE REVIEW	
2.0 INTRODUCTION	8
2.1 LITERATURE REVIEW	8-12
2.2 CONCLUSION	12
CHAPTER 3 : OVERVIEW OF ENTICEMENT	
3.0 INTRODUCTION	13

3.1	DEFINITION	13-14
3.2	DIFFERENT PERSPECTIVES	
3.2.1	NON-MUSLIM PERSPECTIVE	15
3.2.2	MUSLIM PERSPECTIVE	16-19
3.2.3	FEMINIST	
3.3	CONCLUSION	21
CHAPTER 4 : LAWS RELATING TO ENTICEMENT		
4.0	INTRODUCTION	22
4.1	SECTION 498 OF THE PENAL CODE IN DETAIL	22-30
4.2	COMPARISON BETWEEN SEDUCTION & ADULTERY	30-34
4.3	CIVIL LAW	34-37
4.4	SYARIAH LAW	37-39
4.5	CASES ON ENTICEMENT IN MALAYSIA	39-44
4.6	CONCLUSION	45-46
CHAPTER 5 : WEAKNESSES OF SECTION 498		
5.0	INTRODUCTION	47
5.1	CONSTITUTIONALITY OF SECTION 498	47-48
5.1.1	ARTICLE 5	48-50
5.1.2	ARTICLE 8	50-54
5.1.3	ARTICLE 9	54-56