

**THE COMPARATIVE STUDY ON THE DEFENCE OF PROVOCATION IN  
MALAYSIA AND UNITED KINGDOM: THE NEED TO REVIEW.**

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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**

In Malaysia, provocation is a defence provided in the Penal Code under Exception 1 to Section 300 and is a partial defence for murder in which if succeed in proving its existence, it will amount to the mitigation of the sentences from murder to culpable homicide not amounting to murder. The research conducted has identified several loopholes or weaknesses in the local application of provocation as a defence and therefore subjected for a review. This is because the dual requirements which consist of the graveness and suddenness of provocation and the reasonable man test are in fact hard to establish. Even if these two requirements are successfully established, there are other elements may preponderate the importance of the dual requirements and leads to failure. This paper is also a comparative study between the application of the defence of provocation in Malaysia and the Partial Defence of Loss of Control in United Kingdom. The previous defence of provocation in the Homicide Act is abolished by the new legislation of Coroners and Justice Act 2009. In order to claim the defence of loss control, both Sections 54 and 55 of Coroners and Justice Act 2009 has to be fulfilled. The present partial defence of United Kingdom can be seen as a checklist. If the elements exist, then the defence can become a success. Therefore by making a comparative study between the defence that available in Malaysia and United Kingdom, the authorities can make improvement to the local defence,

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