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ABSTRACT

The legal provisions pertaining to Islamic Family Law that are implemented by Shari'ah Court in Malaysia are mainly derived from the Classical Islamic Law. The codification of these provisions finally is later known as Islamic Family Law Act. This research is an examination of the present law both for Muslims and non-Muslims governing solemnities in the contract of marriage. The study involves a detailed discussion on selected provision governing marriage agreement, essential requirement of marriage condition as well as impediments to a valid marriage and conjugal rights. The purpose is to highlight consistencies and discrepancies between the two types of law. The Islamic Family Law Act 1984 and the Law Reform Act (Marriage and Divorce) 1976 are analysed by looking at their sources. The emphasis is also given to study the extent of the codification of Islamic Family Law from Classical Islamic Law point of views. The codification of Islamic Family Law in Malaysia is the outcome of *ijtihadic* attempts of Muslim scholars. Thus, it is suggested that these provisions require further consideration for improvement, such as the triple pronouncement of *talaq* in one sitting (*al-talāq al-thalāth bi lafz wahid*), establishing paternity (*nasab*) after the death of the husband or after a four-year period of divorce, and whether a working wife is entitled to financial support from her husband. The study also establishes that both laws are in agreement in more than thirty issues pertaining to marriage, which indicate possibility of harmonizing both the Islamic Family Law and the Law Reform Act. Finally, the study recommends a number of proposals for reform. The most important one is the need to incorporate the Islamic provisions pertaining to inheritance and bequests as an integral part of Islamic Family Law.

APPROVAL PAGE

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DECLARATION

I hereby declare that this thesis is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references and a bibliography is appended.

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Signature: Date:

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IFLA	Islamic Family Law (Federal Territories) Act 1984
IIUM	International Islamic University Malaysia
JH	Jurnal Hukum
JMBRAS	Journal of the Malayan Branch Royal Asiatic Society
KB	Law Report King's Bench
LRA	Law Reform Act (Marriage and Divorce) Act 1976
Mal LR	Malaya Law Review
MLJ	Malayan Law Journal
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UMNO	United Malay National Organisation

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⁴ Ahmad Ibrahim, *Family Law in Malaysia* (Kuala Lumpur: Malayan Law Journal, 3rd edition, 1997).

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⁵ Ahmad Ibrahim, *Undang-Undang Keluarga Islam di Malaysia* (Kuala Lumpur: Malayan Law Journal, 2nd edition, 2000).

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