



## RESEARCH ARTICLE

## Child Marriage in Malaysia: AI-Assisted Decision Making

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Marriage and divorce matters in Malaysia are governed by a dual legal system, namely the Civil law and Syariah law. For non-Muslims, the minimum legal age is 18 under the Law Reform (Marriage and Divorce) Act 1976, with exceptions allowing females aged 16 to marry with the Chief Minister's licence. Muslims follow Syariah law, prohibiting marriage under 18 for men and under 16 for women, except with a Syarie Judge's permission under certain circumstances. This dual system reflects differing perspectives and legal norms. The non-uniformity of procedures in Syariah applications and the lack of guiding principles in the statutes or enactments for decision making by the Syarie judge and Chief Minister may potentially lead to inconsistent decisions. This may lead to inconsistent treatment of child rights and departure from fundamental principles outlined in the Convention on the Rights of the Child ratified by Malaysia. The research adopts doctrinal legal research, examining relevant family law statutes, enactments as the primary source of law while journal articles, academic books, newspapers and other reports as the secondary sources of law will also be studied, relating to the issues of child marriage. The research objectives are to examine the issues of child marriage in Malaysia and to recommend for a standardised age limit for marriage across Malaysia's dual legal systems with exceptions and the use of Artificial Intelligence to facilitate the decision making by the relevant authorities. This will reconcile discrepancies in the decision making by the relevant authorities.

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**1. INTRODUCTION**

Child marriage, though considered a significant and joyous event, raises questions about the willingness of the parties involved and its alignment with the best interests of the child. The concept of 'child' varies between legal systems, with Malaysian law defining it as individuals under 18 years old under civil law, while under Islamic law, it pertains to those who have not reached puberty, with varying interpretations. 'Child marriage' is broadly defined as any marriage where one or both partners are under 18 years old, as per the United Nations Convention on the Rights of the Child ('UNCRC') (General Assembly Resolution, 1989) and United Nations International Children's Emergency Fund ('UNICEF') (United Nations International Children's Emergency Fund (UNICEF), 2023). It is legally addressed in Malaysia under section 10 of the Law Reform (Marriage and Divorce) Act 1976 for the non-Muslims, while for the Muslims, it was addressed in the respective Islamic Family Law Statement Enactments and statute for the Federal Territories.

The issue of child marriage has raised global concerns. It is one of the United Nations' targets in its 5th sustainable development goal (gender equality) to eliminate the harmful practice of "child, early and forced marriage" (United Nations, n.d.).

Malaysia is devoted to dealing with this issue as there were at least 1,500 children married every year in Malaysia as of 2018 (UNICEF, n.d.). This study delves into the complexities of child marriage within Malaysia's dual legal system and proposes AI integration through implementation of an AI-assisted portal to streamline the process for enhanced efficiency and safeguarding of children's rights.

## **2. MATERIALS AND METHOD**

The research methodology employed in this study is doctrinal legal research. This involves a comprehensive review and analysis of existing literature, legislation, and expert opinions pertaining to child marriage in Malaysia. Primary sources such as statutes and state enactments were examined to gain insights into the legal framework governing child marriage applications and procedures. Additionally, secondary sources including academic articles, research papers, and reports from international organisations such as the United Nations and UNICEF were consulted to understand the broader context and implications of child marriage within Malaysia and globally.

The research methodology also involved synthesising and integrating diverse perspectives from legal, social, and religious domains to develop a comprehensive understanding of the challenges and potential solutions related to child marriage regulation. Through this analysis, this study aims to provide valuable insights and recommendations for advancing child marriage application procedures in Malaysia through an AI-assisted portal.

## **3. RESULTS**

### **3.1 Legal framework in Malaysia**

In Malaysia, the legal system operates under both civil and Syariah jurisdictions, with distinct laws governing Muslims and non-Muslims. For non-Muslims, section 10 of the Law Reform (Marriage and Divorce) Act 1976 stipulates the minimum legal age of marriage at 18, although exceptions exist where females who have completed her 16th year but below the age of 18 must obtain the Chief Minister's licence. Conversely, Muslims are governed by the respective states' Islamic Family Law Enactments (there were 13 states in Malaysia), or the Islamic Family Law (Federal Territories) Act 1984 for the three Federal Territories in Malaysia. The Federal Territories and most of the states (except Selangor and Kedah) set the minimum age of marriage at 18 for males and 16 for females, subject to the written permission of the Syarie Judge. Selangor and Kedah have raised the minimum age of marriage for females from 16 to 18, subject to the Syarie Judge's written permission. The Quran permits marriage upon reaching puberty and based on hadith regarding Aisha and Prophet Muhammad (peace be upon him), they were married when Aisha was six years old and the marriage was consummated when she reached nine years old (Sahih al-Bukhari, 5134).

The application process for child marriage differs for non-Muslims and Muslims in Malaysia. Non-Muslims must submit marriage applications to the National Registration Department ('NRD') and obtain a marriage licence from the Chief Minister for approval. This process involves completing prescribed forms and providing necessary documentation, with female applicants aged between 16 to below 18 requiring parental or guardian's consent in sworn statements. Financial sources of the male and female couples must also be submitted (National Registration Department, 2024). In contrast, Muslim applicants navigate the Syariah court system, starting with obtaining permission to marry from the District Islamic Religious Office (Sistem Pengurusan Perkahwinan Islam Malaysia, n.d.). During this process, the applicants and the child, applicant's parents or guardian, depending on the state regulation must attend a pre-marriage course organised by the State Islamic Department (Samuri et al., 2022). The current civil family law and Islamic family law permit child marriage with the Chief Minister's licence or the Syarie Judge's written permission. However, there is a lack of guidance on the factors to be considered, which may lead to potential difference or inconsistency in the consideration by the deciding authority. As such, it is submitted that an AI-assisted portal that incorporates the judicial decision of both dual legal systems will be helpful reference.

### **3.2 Comparative analysis with Singapore and Indonesia**

The legal frameworks regarding marriage in Singapore and Malaysia, particularly under the

Women's Charter 1961 of Singapore and the Administration of Muslim Law Act 1966, exhibit similarities in addressing the minimum age for marriage. Section 9 of the Women's Charter sets the marriage age limit at 18 in Singapore, with provisions for a special marriage licence under section 21 for applicants under 18 who have completed a compulsory marriage preparation programme. As for Muslim marriage, section 96(4) of the Administration of Muslim Law Act 1966 of Singapore prohibits marriage below the age of 18 years with exception under section 96(5), if the girl has attained puberty.

Conversely, Indonesia has made amendments to its Law No. 1 of 1974 on marriage through Law No. 16 of 2019, which raised the minimum marriage age for women from 16 to 19 with parental consent by submitting a dispensation request to the religious court for Muslims or to the District court for non-Muslims. However, dispensations for marriage have continued to increase at an alarming rate in recent years, potentially indicating limited effectiveness of such an amendment in curbing underage marriages (Makka et al., 2020).

Nevertheless, this paper proposes the implementation of AI-assisted portal to guide authorities in evaluating child marriage applications, sidestepping an outright ban that could disrupt Malaysia's dual legal system. Such an approach seeks to address the issue while respecting the legal and cultural nuances outlined in the relevant statutes.

### **3.3 Factors and implications of child marriage**

Child marriage persists as a multifaceted issue influenced by various interrelated factors. It was reported that the driving factors of child marriage in Malaysia include the existing laws that facilitate child marriage, poverty, lack of access to sexual and reproductive health information as well as education, social and cultural norms that permit the practice of child marriage. Gender discrimination exacerbates the problem. (UNICEF, n.d.). The implications of child marriage extend beyond the individual, encompassing broader societal and developmental repercussions such as severe health and psychological problems, including complications during and after pregnancy, physical abuse, and domestic violence. Statistics from various sources highlight the significant prevalence of child marriage in Malaysia, underscoring the urgent need for comprehensive measures to address its root causes and protect children's rights (Dorskoch, 2013). Addressing this complex issue requires a comprehensive approach involving collaboration between governments, non-governmental organisations, and relevant authorities to raise awareness, enforce legal safeguards, and provide support services. Streamlining registration processes, enhancing coordination among authorities, and ensuring decisions are guided by the best interests of the child are essential steps in combating child marriage within Malaysia's dual legal system.

## **4. DISCUSSION: TWO-STEP APPROACH**

The lack of guidance in both dual legal systems in the decision making of child marriage application has brought the authors to form a new novel point through the suggestion of an AI-assisted portal to address child marriage application and decision-making.

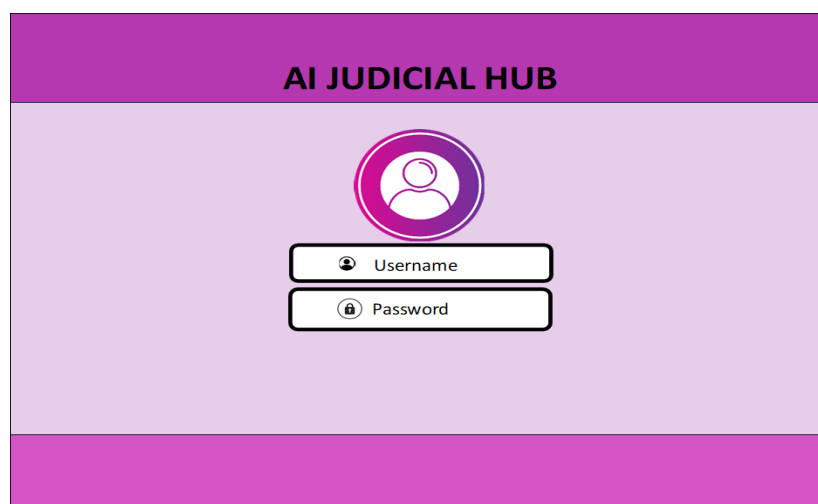
### **4.1 First step: increasing minimum age to 18 with exceptions**

The proposed first step in addressing the issue of underage marriage involves increasing the minimum age of marriage for Muslim women in all the states in Malaysia (other than Selangor and Kedah) to 18 years subject to the Syarie Judge's written permission. These findings resonate with the implementation of two states, Selangor and Kedah, in increasing the minimum age requirement. The discussions held in the Selangor State Assembly highlighted the importance of aligning the minimum age limit with international standards and practices to protect children, especially girls, from exploitation (Dewan Negeri Selangor, 2018). During the debate on the Bill of Islamic Family Law (State of Selangor) (Amendment) Enactment 2018 which sought to increase the age of marriage for Muslim women in Selangor from 16 to 18, it was highlighted that underage marriage will affect a woman's educational opportunities, employment opportunities and have adverse effects such as physical and sexual violence, long-term health problems or death due to premature pregnancy. (Dewan Negeri Selangor, 2018).

The Bill was also supported on the grounds that persons at the age of 16 or 17 are still immature. Such amendment can be protective for women under 18 for authorities to defend them in the event of sexual intercourse out of wedlock and so on that could cause these people to escape from being prosecuted for raping. It was further stated that the lives of the past are not the same today. At the current state of affairs, youths at the age of 18 are still in their learning phase. As such the law makers have to ensure that the young generation are not only knowledgeable, but their welfare is preserved as well.

#### 4.2 Second step: Integration of AI programming in an official portal

The proposed second step in addressing child marriage application procedures in Malaysia involves integrating AI programming into an official portal, hypothetically called the AI Judicial Hub, to assist the Chief Minister and Syarie Judges of the respective states in decision-making process on any application to marry under the minimum legal age. This innovative solution aims to provide the Chief Minister and the Syarie judges with previously decided cases for references to promote greater consistency in the granting of licence or written permission. The integrated portal will serve as a centralised platform for addressing child marriage issues, offering a user-friendly interface with robust user authentication features to safeguard the identity and confidentiality of individuals involved as can be seen under Figure 1.0.



**Figure 1.0 : Mock plan of the portal login page**

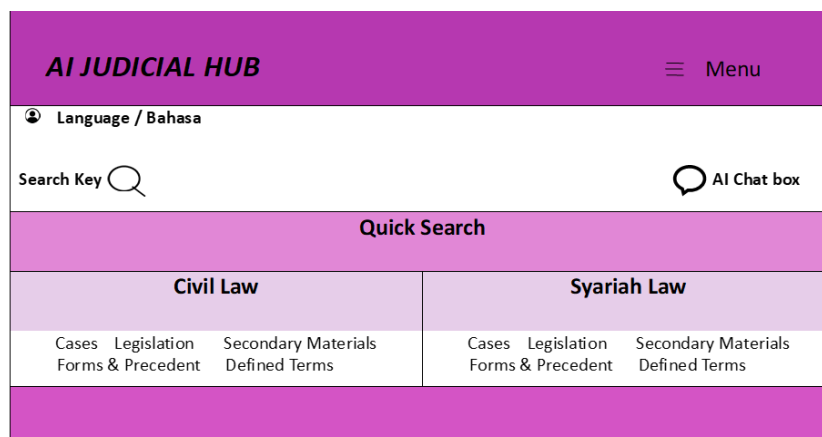
Additionally, the portal will feature separate channels for the civil and Islamic legal system, enhancing navigation and management of cases within their respective jurisdictions. An advanced content management feature will enable administrators to input, update, and publish cases related to child marriage, ensuring current and relevant content to be displayed in the portal.

These AI-assisted portal will also include system analysis which encompasses parameters unique to each case, including the age, status of employment, occupation, financial sources, marital status of the intended spouse, nationality, and whether the applicant is pregnant during the child marriage application. These parameters are crucial in determining the welfare and best interests of the child marriage applicants.

To look into the parameters, employment status provides insight into financial stability, while age may indicate maturity for decision-making. Marital status of the intended spouse reveals prior or current commitments, nationality impacts legal rights, and gender dynamics underscore vulnerabilities, especially for girls and women. Pregnancy status adds complexity, affecting the health of both the expectant mother and the unborn child. The AI's ability to consider these factors is facilitated by its content management feature, which enables it to stay updated with current statistics and data.

A Multilingual support feature will be integrated to accommodate users' language preferences, with a focus on Bahasa Melayu as the primary language used in Syariah law reports. A search functionality feature and AI-powered chat box will empower the Chief Minister and the Syarie judges by providing efficient access to pertinent information and promoting consistency in the outcomes of the decisions by analysing keywords and facts from current cases and providing relevant references and insights to assist the decision-making.

Through this the Chief Minister and Syarie judges will be able to access decisions from both legal systems and establish precedents, this initiative aims to promote consistency in handling child marriage applications, thereby fostering a more effective system with proper decision-making guidance for the benefit of children without displacing the role of the Chief Minister and the Syrie judges. The above-mentioned features can be referred to under Figure 2.0.



**Figure 2.0 : Mock plan of the portal homepage**

## 7. CONCLUSION

The two-step approach suggested presents a comprehensive strategy aimed at safeguarding the rights and welfare of the child applicant. The first step, increasing the minimum age for marriage for Muslim women in all the states in Malaysia (other than Selangor and Kedah) to 18 with exceptions, aligns with international standards and seeks to mitigate the risks associated with underage marriage. The second step, integrating AI systemic programming into an official portal for data input and analysis, reduces the time and effort required by streamlining processes and providing the Chief Minister and the Syarie judges with quick and accurate access to relevant information by analysing key parameters unique to each case without imposing its own opinions. The integration of AI technology represents a pivotal step towards modernising Malaysia's legal system, expediting the decision-making process and promoting a more consistent, equitable and child-centric approach to marriage application.

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