



## A COMPARATIVE STUDY OF THE ILLEGITIMATE CHILD TERM FROM SHARIAH AND MALAYSIA LEGAL PERSPECTIVE

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### Abstract

**Purpose of the study:** This article focuses on the definition of ‘illegitimate children’ in Muslim society in Malaysia based on its perspective of Shariah law, Islamic family law, civil law in Malaysia, and the existing perception of the Muslim society in Malaysia. This study also aims to compare the legal terms of ‘illegitimate children’ from various perspectives with the layman definition of illegitimate children.

**Methodology:** Research information has been obtained through the documentary data collection based on report and annual data from the Malaysian government, non-government agencies and relevant *turath* scriptures to obtain the best definition of “illegitimate child”. Once data have been collected, the data have been analysed using a content analysis method through deductive or inductive reasoning.

**Main Findings:** The result shows that the term ‘illegitimate children’ is based on the opinions of the Muslim Scholars which is the child conceived from adultery act without a legal marriage. However, the definition of illegitimate children is broad and varies among the existing authoritative bodies in Malaysia, which include a child conceived from an adultery act, unregistered because of lack of proper documentation for registration.

**Applications of this study:** The results of this study are expected to assist the authorities especially Malaysian Islamic Development Office - Jabatan Kemajuan Islam Malaysia (JAKIM), National Registration Department (JPN), Ministry of Health Malaysia (MOH), Islamic State Department of Malaysia, Shariah Courts in Malaysia and other agencies and NGOs in formulating strategies and taking follow-up actions. In addition, this study will become a reference to individuals, researchers, academicians, students, and the public in Malaysia.

**Novelty/Originality of this study:** The misunderstanding about the definition of an illegitimate child according to JPN, added by the fact that JPN does not have the jurisdiction at all to determine the validity of the child that is supposed to be placed under the Shariah Court, has triggered an ongoing polemic in the Muslim community in Malaysia, concerning this child status issue.

**Keywords:** Polemic, Illegitimate Child, Shariah Law, Muslim Community, National Registration Department of Malaysia.

### INTRODUCTION

The issue of illegitimate children in Malaysia has been a cause for concern among Malaysian citizens. A study done by Malaysian Registry Department (Jabatan Pendaftaran Negara) has recorded a total of 159,725 births of illegitimate children for the period of three years which is from 2013 to 2016 or a total of 140 babies being born by Muslim mothers daily, on average ([Berita Harian, 2016](#)). In general, all the procedures of birth registration are under the authority of Jabatan Pendaftaran Negara (JPN) - National Registration Department. This was allocated under Section 7 and 7 (1), [Births and Deaths Registration Act 1957 \(Act 299\)](#). Through this section, the National Registry Department has the power to establish rules and procedures of registration that need to be abided by all the parties involved such as the National Registration Regulations for every birth and death, it is confined under the procedure of Births and Deaths.

Other than JPN, the authorities in Malaysia such as the Malaysian Islamic Development Office or Jabatan Kemajuan Islam Malaysia (JAKIM) and the Mufti Office also play important roles in ruling out some guidelines and fatwa in the effort to address the births of illegitimate children issue ([Rashid & Hamid, 2014](#)). As an example, the guideline revolves around the implications from the birth of the illegitimate child in terms of the naming, lineage, guardianship for daughters, and inheritance ([JAKIM, Malaysia, 1998](#)), also the decisions made by the committee of the Fatwa Council with regard to laws, definitions and others, be it at national or state level ([Rashid & Hamid, 2014](#)).

Looking into the number of illegitimate children in Malaysia that has been increasing and its significance among the members of the society especially Muslims, this article aims at discussing the actual definition of the term ‘illegitimate child’ following the reality of the registration system and the status validity of births in Malaysia. Thus, the term and any issues related to the illegitimate child can be well understood by the Muslim community. The rationale behind this study

is to clear the misunderstanding and misuse of specific terminologies related to illegitimate children's issues. This is due to the misconceptions and circumstantial varieties depending on the party that used the terms.

## LITERATURE REVIEW

Generally, the literature written in this field of study can be divided into two major divisions. The first part is a brief review of the concept of illegitimate children from the perspective of Shariah and Islamic law. The second part is related to the statistical registration of illegitimate children in Malaysia from 1999 until now.

Part One: a brief review of the concept of illegitimate children from the perspective of Shariah and Islamic law.

The term “illegitimate child” is a term that has been misinterpreted from the terms “Child Adultery”. This is due to the different contexts of terminology usage. In the context of Islam, whatever term is used, it refers to the same group, only apply the term difference when it is viewed from different perspectives and environments (Ismail, 2013). A specific terminology or definition is essential to understand the essence of any knowledge (Mohamed, Mutalib, Sahid, Baharudin, Ismail, Murad, & Wafa, 2019).

Fuqaha' have used the terms “*Ghairu Syar'ie*”, “*Ibn Zina*” and various other titles to describe this illegitimate child (al-Barakati, 2003; Ahmadnagari, 2000). For example, the definition that a child is born as a result of relationship between a man and a woman through adultery is an illegitimate child (Barraj, 1981). In addition, there is a definition that a child resulting from male-female relationships without legal marriage according to Shariah, or as a result of illicit relations between men and women referred as “*Ghairu Syar'ie*” (Shalabi, 1999).

Based on the definition above, there are several criteria used by Islamic jurists in determining a person's child is a child of adultery or illegitimate child. Among these criteria are children born of adultery and children born without legal marriage. This can also be seen from the definition of other illegitimate children such as adultery is the child born of the mother from an unlawful way or is the result of a forbidden relationship (al-Zuhayli, 1985). Also, adultery is a child born of male-female relationships without a valid Syaria marriage (al-'Ajuz, 1986). Even children born of unmarried women are considered adultery under certain conditions (al-Sughdi, 1984).

The concept of illegitimate children according to Islam can also be seen in use in Fatwa Committee Decision of the National Council, the State Fatwa Council, Act, Enactment and Ordinance of Islamic Family Law in Malaysia. Illegitimate children are children born out of wedlock, whether as a result of adultery or rape, and he is not from doubtful intercourse (*syubhah*) or not of slavery child and children are born less than 6 months 2 *lahzah* (seconds) according to the *qamariah* calendar from the date of *tamkin* (Othman, 2018). Many previous studies have discussed the concept of illegitimate children from the perspective of Islam and Islamic Law in Malaysia. But does it really meet the definition of illegitimate children based on reality in Malaysia?

Part Two: Statistical Data of Illegitimate children Registered in Malaysia from 1999 until now.

In Malaysia, illegitimate children's registrations statistics from the National Registration Department JPN from 1999 to 2003 recorded a very large number of 70,430 people (Wahid, 2007). Meanwhile, the statistics recorded by the Ministry of Women, Family and Community Development from 2008 to 2010 were 152,182 children out of wedlock. This data shows a double-digit increase over previous data (Bernama, 2019). Moreover, the statistics of illegitimate children recorded by the Malaysian Department of Registration (JPN) in 2016 amounted to 159,725 (Berita harian, 2016).

As we can see, the statistics of illegitimate births issued by the JPN in 2016 alone are shocking. It is possible that the amount recorded only involved illegally detecting children. But the aforementioned amount is a finding of five years ago and the amount submitted by the National Registration Department is still questionable. This is because the definition of illegitimate children according to the JPN is different from the definition of Islamic jurisprudence and Syaria law in Malaysia.

## METHODOLOGY

Since methodology plays a significant role in order to achieve the objectives of the study (Baharuddin, Ahmad, Ismail, Mutalib & Harun, 2019), this study was conducted using qualitative methodological design of two main phases.

### First Phase: Data Collection

In this part, the documentary data collection was applied to collect secondary data based on reports and annual data from the Malaysian government and non-government agencies. In order to obtain the best definition of “illegitimate child”, primary data are collected from among Islamic Scholars based on relevant *turath* scriptures.

### Second phase: Data Analysis

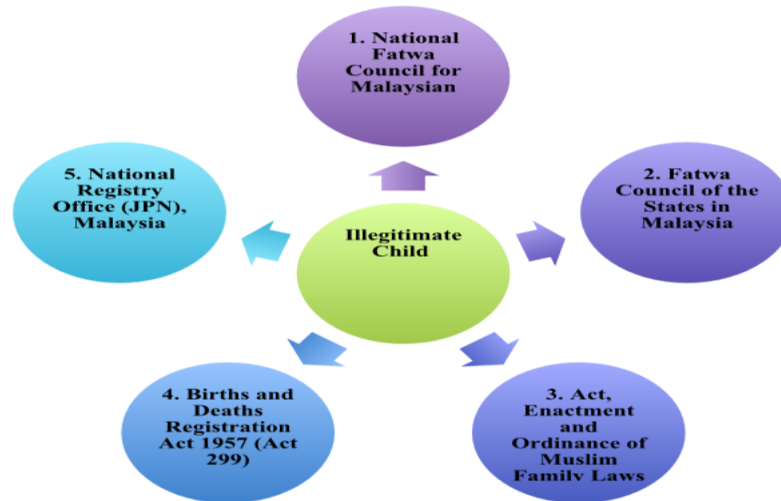
This study analyzed data using the content analysis method. Mohajan (2018) explains that content analysis is a method for analyzing written, verbal, or visual communication messages. According to Erlingsson and Brysiewicz (2017), the objective in qualitative content analysis is to systematically convert a large number of texts into a highly organized and concise summary of key decisions.

Once data have been analyzed using deductive and inductive reasoning. [Bengtsson, \(2016\)](#) explains that deductive reasoning is the process of concluding data collected by reflecting new information into theory. Deductive reasoning, on the other hand, needs to look for a predefined subject or existing by testing a hypothesis or principle ([Hyde, 2000](#)). In conclusion, both are general approaches to the reasoning that may lead to the acquisition of new knowledge ([Baharuddin, 2017](#)).

## FINDINGS AND DISCUSSION

### The Definition of an Illegitimate Child Following the Malaysian Laws

The definition of an illegitimate child in Malaysia can be referred from several authoritative bodies such as:



**Figure 1:** The bodies determining the definition of an illegitimate child in Malaysia

### Illegitimate child according to the Decision of the Committee of National Fatwa Council for Malaysian Islamic Affairs 2003

The 57th National Council for Malaysian Islamic Affairs Fatwa Committee Muzakarah on 10 June 2003 had discussed issues of illegitimate child ([National Council for Malaysian Islamic Affairs Fatwa Committee Muzakarah, 2003](#)), and they had decided that an illegitimate child is:

A child born out of the wedlock due to adultery or rape and he or she is not from the *syubhah* intercourse and not out of slavery.

A child born less than six months and two *lahzah* seconds from the *qamariah* calendar from the date of the *tamkin* (intercourse).

An illegitimate child cannot be placed under the lineage of the man, causing his or her birth, or anyone admitting to being the father of the child. Thus, the man cannot inherit, cannot be the *mahram*, or become the guardian to the child in question.

### Illegitimate child according to the Fatwa Council of the States in Malaysia

**Table 1:** The illegitimate child fatwa in every state ([National Council for Malaysian Islamic Affairs Fatwa Committee Muzakarah, 2003](#))

No.	States Fatwa Council	Fatwa	No.	States Fatwa Council	Fatwa
1.	Perlis State Fatwa Committee ( <a href="#">Department of Islamic Development Malaysia, 2012</a> )	Fatwa of Illegitimate Children (Government of Perlis Gazette No. 2, Vol. 56)	8.	Sarawak State Fatwa Committee ( <a href="#">Department of Islamic Development, 2005</a> )	Fatwa of Illegitimate Children (Non-Gazetted)
2.	Kedah State Fatwa Committee ( <a href="#">Ahmad, 2011</a> )	Fatwa of Illegitimate Children (Government of Kedah Gazette No.13, Vol. 54)	9.	Terengganu State Fatwa Committee ( <a href="#">Department of Islamic Development, 2004</a> )	Fatwa of Illegitimate Children (Government of Terengganu Gazette No.2)
3.	Mufti of Negeri Sembilan State Government ( <a href="#">Ahmad,</a>	Fatwa of Children Born Out of Wedlock (Government of Negeri	10.	Fatwa Committee of Selangor ( <a href="#">Abd. Wahid, 2005</a> )	Fatwa about Guidelines on Illegitimate Children

	<a href="#">2002)</a>	Sembilan Gazette No. 209)				According to Islamic Law (Government of Selangor Gazette No. 9, Vol. 58)
4.	Islamic Legal Consultative Committee for Federal Territories ( <a href="#">Department of Islamic Development Malaysia, 2017)</a>	Fatwa of Illegitimate Children and Linage (Federal Territories Gazette No. 30)	11.	Perak State Committee	Fatwa -	
5.	Johor State Fatwa Committee ( <a href="#">Department of Islamic Development Malaysia, 2004)</a>	Fatwa of Illegitimate Children (Non-Gazetted)	12.	Sabah State Fatwa Committee	-	
6.	Malacca State Fatwa Committee ( <a href="#">Saleh, 2005)</a>	Fatwa of Illegitimate Children (Government of Malacca Gazette No. 22, Vol. 49)	13.	Pahang State Committee	Fatwa -	
7.	Mufti of the State of Penang ( <a href="#">Ahmad, 2005)</a>	Fatwa of Illegitimate Children (Government of Penang Gazette No. 22, Vol. 49)	14.	Kelantan State Committee	Fatwa -	

As the outcome from the decision made in the committee meeting of the National Fatwa Council for the Islamic Affairs in Malaysia, eight states namely the Kuala Lumpur Federal Territory, Johor, Melaka, Sarawak, Negeri Sembilan, Terengganu, Selangor, and Penang have accepted the decision made in the Committee Meeting held on 10 June 2003. Every state has further specified the gist of the decisions made in the fatwa in the states although they came in different wordings ([Ismail, 2013](#)). In 2010, the Kedah Fatwa Committee defined illegitimate child following the Shari'ah law similar to the National Fatwa Council and added to the definition that a child would still be considered legitimate if the parents admitted that the child was illegitimate, although the child had been born more than six *qamariah* months.

However, the fatwa from Perlis is different from other states when the Perlis Islamic and Malay Customary Council decided that the child born less than six months after the mother marries can be attached to the bin//binti to the mother's husband unless he refuses to do so. Six from the states namely Kuala Lumpur Federal Territory (Gazette No. 30), Melaka (Gazette No. 20), Negeri Sembilan (Gazette No. 209), Terengganu (Gazette No. 2) and Selangor (Gazette No. 9), including Perlis have gazetted the fatwa (Gazette No.2). The other four states Perak, Sabah, Pahang, and Kelantan did not issue any fatwa regarding illegitimate children.

### Illegitimate child according to the Act, Enactment, and Ordinance of Muslim Family Laws in Malaysia

**Table 2:** Related Act, Enactment, and Ordinance of the State

No.	Laws	States	Sections	No.	Laws	States	Sections
1.	<a href="#">Islamic Family Law (Federal Territory) Act 1984 (Act 303)</a>	Federal Territory	Section 2/ Section 110	8.	<a href="#">Islamic Family Law (State of Penang) Enactment (5) 2004</a>	State of Penang	Section 2/ Section 111
2.	<a href="#">Islamic Family Law (State of Selangor) Enactment 2003</a>	State of Selangor	Section 2/ Section 111	9.	<a href="#">Islamic Family Law (State of Perlis) Enactment (7) 2006</a>	State of Perlis	Section 2/ Section 111
3.	<a href="#">Islamic Family Law (State of Kelantan) Enactment (6) 2002</a>	State of Kelantan	Section 2/ Section 111	10.	<a href="#">Islamic Family Law (State of Negeri Sembilan) Enactment (11) 2003</a>	State of Negeri Sembilan	Section 2/ Section 111
4.	<a href="#">Administration of Islamic Family Law (State of Terengganu) Enactment (12)1985</a>	State of Terengganu	Section 2/ Section 109	11.	<a href="#">Islamic Family Law (State of Malacca) Enactment(12) 2002</a>	State of Malacca	Section 2/ Section 111

5.	<a href="#">Islamic Family Law (State of Pahang) Enactment (3) 2005</a>	State of Pahang	of Section 2/ Section 111	12.	<a href="#">Islamic Family Law (State of Johor) Enactment (17) 2003</a>	State of Johor	of Section 2/ Section 111
6.	<a href="#">Islamic Family Law (State of Perak) Enactment (6) 2004</a>	State of Perak	of Section 2/ Section 111	13.	<a href="#">Islamic Family Law (State of Sabah) Enactment (8) 2004</a>	State of Sabah	of Section 2/ Section 111
7.	<a href="#">Islamic Family Law (State of Kedah) Enactment (7) 2008</a>	State of Kedah	of Section 2/ Section 111	14.	<a href="#">Islamic Family Law (State of Sarawak) Ordinance (43) 2001</a>	State of Sarawak	of Section 2/ Section 114

Based on the table above, Table 2, Section 2 for every enactment throughout the state, Sarawak Ordinance also the Federal Territory Act defined the meaning of “illegitimate” to be related to, a child born out of the wedlock and not from syubhah intercourse. However, a question emerges as to who can be linked with the father and this is allocated in Section 110, Muslim Family Law for the Federal Territory, Section 111 for Muslim Family Law Enactment for the states of Selangor, Kelantan, Pahang, Perak, Kedah, Penang, Perlis, Negeri Sembilan, Melaka, Johor, and Sabah, also Section 114 Sarawak Law Ordinance for the same allocation.

There is a difference for Section 109, Enactment 12, 1985 Terengganu Muslim Family Law that does not finalize the period at the maximum date that the woman gives birth like other states, but it only conditions the period of time in general that can be accepted by the Shari’ah Law.

Thus, illegitimate child according to the act or the enactment is a child born out of the wedlock and not from *wati’ syubhah*. Also, the law has dictated that the minimum rate of a woman to be pregnant is six *qamariah* months and the maximum of four *qamariah* months for the period of pregnancy.

#### **Illegitimate child according to the Births and Deaths Registration Act 1957 (Act 299)**

In general, the term “illegitimate child” has existed in the [Births and Deaths Registration Act 1957 \(Act 299\)](#) through the allocation of registration for this type of children under Section 13 and 13 (A), [Births and Deaths Registration Act 1957 \(Act 299\)](#). Section 13 establishes an allocation on the father of the illegitimate child by stating this:

“Whatever the content of the previous allocations, when it comes to the issue of an illegitimate child, no one as the father of the child is required to give information about the child’s birth, and the Registrar must not include in the registration anyone’s name to be the father of the child except under the request of the mother or someone admitting to be the father of the child, and that person must, in that circumstance, sign the registration together with the child’s mother.”

Meanwhile, Section 13 (A) of the same act provides an allocation about the name of the child’s family, as follows:

- (1) Name of the family, if any, that is to be noted with a child with a valid status is allowed, if the child must take his father’s name as the family’s name if any.
- (2) Name of the family, if any, that is to be noted for a child without a valid status is allowed, if the mother acts as the informant or willingly relay the information, making the mother’s name the family name; under the condition that if there is someone who admits to having been the father of the child following Section 13 asking to do so, then the family name can take after the man’s family name.

Based on the allocation above, it can be understood that an illegitimate child according to this act, has the right to be registered in the same way as other rightful children. In general, the difference between an illegitimate and legitimate child is that an illegitimate child can only be registered with the information about the mother, without any information about the father, with the prohibition of giving registration information to someone admitting to be the father, unless it is requested so by the mother. This is as referred to provision of Section 13 of this Act. In this Section 13 (A), it has been allocated that the name of the mother is to be the surname for the illegitimate child and the father’s name is not allowed to be the surname unless the mother requests for him to do so.

#### **Illegitimate child according to the National Registration Department (JPN), Malaysia**

The specific definition for an illegitimate child is not found in JPN except that it is identified as a child that has no birth documents due to the fact that the parents’ marriage is not registered in the Syariah court. There are two categories of systems that record the registration of an illegitimate child in JPN where the illegitimate child will also be known as “Section 13 child” and “child without father’s information”:

The registration of a child under “Section 13” applies to an illegitimate child who has information of their parents at the time of the registration where it is divided into three types:

- i. The parents of the child are not married.
- ii. The parents of the child are married but the marriage documents cannot be registered.
- iii. The parents are married but the child is born less than six *qamariah* months.

The registration of a child without the father's information applies to an illegitimate child who only has the information about the mother at the time of the registration. As examples:

- i. There is no document of the father, including the situations where the father is abroad and the child is birthed from rape and *syubhah* marriages.
- ii. The mother deliberately refuses to include the father's information in the child's registration.

However, the two categories do not specify whether they are in the birth records in JPN or in the birth certificate; they are general (child's registration under Section 13 and the registration without father's information). JPN does not distinguish every category in writing in the computer system and they are still trying to find the right methods to place remarks in the system. On the other hand, on the birth certificate, this illegitimate child is identified based on "registration under Section 13" and "registration without father's information" written underneath every birth certificate.

It can be concluded that there is no specific definition for "illegitimate child" according to JPN other than the fact that it is identified as a child registered under Section 13 registration without father's information, and this encompasses many types of child's registrations. Generally speaking, the understanding that an illegitimate child registered in JPN is a child out of adultery is untrue and it is only the interpretation of the society towards the registration category for illegitimate children. Thus, the actual definition of an illegitimate child according to JPN has to be revised and examined so that it can be well understood.

### **The Polemic of Illegitimate child Terminologies in Malaysia**

The interpretation of the Qur'anic verses by the scholars in the writing of exegesis is significant to understand them accurately ([Mutalib, Ismail, Baharuddin, Mohamed, Murad & Wafa, 2019](#); [Wan Ismail, Baharuddin, Mutalib, & Saharudin, 2019](#); [Wan Ismail, Baharuddin, Mutalib, al-Qubaty, 2019](#)). This study is important as well to clarify the ambiguous term 'illegitimate child'. 'Illegitimate child' in Malaysia is acknowledged with various name-calling and terms. However, the term 'illegitimate child' used by a number of authoritative bodies in Malaysia has brought out a polemic and incessant stream of discussions among the members of the society. The polemic is more concerned with the actual meaning of the term 'illegitimate child' used in Malaysia, whether it means child out of adultery or otherwise.

### **An illegitimate child is a Child of Adultery**

In order to correctly understand the definition of the fuqaha', the term illegitimate child and several other terms refer to the child birthed from adultery or out of wedlock based on the perspective of the fiqh law. According to fiqh, children birthed from adultery or out of wedlock are children who are birthed outside legal marriage or children, not from *syubhah* intercourse (*syubhah* marriages). This is the definition that has been accepted by most of the *jumhur* fuqaha' from various sects. This definition is consistent among the fuqaha' from various sects, according to fiqh.

This definition of illegitimate children being children out of adultery by the fuqaha' has been agreed by the National Fatwa Council Committee, The States Fatwa Council, also in the acts, enactment, or ordinance of Muslim families in all the states in Malaysia. It has also been chosen as the legislative definition in the state law allocation and state fatwas that has been gazetted as laws. In general, the definition of the illegitimate child that has been adopted is:

1. A child being born out of wedlock, due to adultery or rape, and he or she is not from *syubhah* intercourse or not from slavery.
2. A child born less than six months two seconds according to the *qamariah* calendar from the date of intercourse.

Thus, there is a need for relevant parties to look into situations that involve children birthed from non-adultery measures.

### **Illegitimate Child Other Than Adulterers**

JPN is a federal body that has the authority of registering births and deaths under the [Births and Deaths Registration Act 1957 \(Act 299\)](#). Although JPN does not have the power to determine the legitimacy of any given birth in Malaysia, section 7 (1) of this act states that, "any child being born as legitimate or otherwise, whether or not he or she is a Muslim, has the right to be registered and the registration must be carried out at federal level".

Based on the [Births and Deaths Registration Act 1957 \(Act 299\)](#) and the National Registration Department (JPN), not all illegitimate children fall under the categories of children out of adultery-they also cover various other categories of children. This happens because there is no specific definition of the illegitimate child at JPN. The lack of a specific definition of 'illegitimate child' is also due to the fact that JPN only has the authority in registering births, whereas the power to validate a child's status is under the Shariah Court.

Illegitimate child according to the recording system in JPN is categorized into two categories which are “Section 13 child” and “child without father’s information” encompassing various types of children bound under the allocation for the illegitimate child in Section 13, [Births and Deaths Registration Act 1957 \(Act 299\)](#). Every category is not detailed, and is very general in the system, whereas the birth certificate is known as child registration under “Section 13” and registration “without father’s information” only. The children registered under this section including the child of adultery, of victims of rape, of *syubhah* marriages, the child from *urfi* marriages, children from marriages that have no valid documents, so on and so forth.

The registration under “Section 13” or registration “without father’s information” is temporary in nature and open to changes and amendments based on the order issued by the Shariah Court with respect to a child’s status subject to Section 27 (3), Births and Deaths Registration Act 1957 (Act 299) which is about correcting or changing details in the registration.

## CONCLUSION

Based on the above observation and discussion, there are two definitions for the illegitimate child in Malaysia which is a child born out of adultery as taken from the views of the fuqaha’, acts, enactments and fatwa, then there is the legitimate child encompassing various categories of children taken from the recording system in JPN.

On a more detailed observation, in actual fact, there is no misunderstanding on the definition of the term ‘illegitimate child’ be it by the fuqaha’, acts or enactments even by the National Registry Office although the definition of ‘illegitimate child’ according to JPN is a rather generic term. Nonetheless, what happens is, the public concentrates more on the term illegitimate child by JPN and they have the assumption that the child registered under “Section 13” and “without any information of the father” that is generic and covers types of other children, is the same as the legitimate children in the fiqh perspective. This is because, every birth in Malaysia must be registered at the federal level based on the [Births and Deaths Registration Act 1957 \(Act 299\)](#), and it is under the jurisdiction of the JPN to register and record every birth.

Not all illegitimate children registered at JPN are the product of adultery and this encompasses the types of registration in other categories. The misunderstanding about the definition of an illegitimate child according to JPN, added by the fact that JPN does not have the jurisdiction at all to determine the validity of the child that is supposed to be placed under the Shariah Court, has triggered an ongoing polemic in the Muslim community in Malaysia, with regard to this child status issue.

Thus, it is proposed that JPN issues a clearer term that does not provoke any controversy to the illegitimate child registered under Section 13 such as “child with incomplete registration”, to avoid any misunderstanding among Malaysian citizens especially Muslims, concerning the status of the child. Other than that, JPN also needs to further specify the category of “child with incomplete registration” among the Muslims to a few categories to make for easier identification, which is as follows:

- a) Child out of adultery.
- b) Child from a victim of rape.
- c) Child from *syubhah* marriage.
- d) Child from *urfi* marriage/not having valid documents.

It is suggested that the authorities also look into the position of the allocation of Section 13, [Births and Deaths Registration Act 1957 \(Act 299\)](#) on Muslims, which is ‘illegitimate child’ in the said section is self-explanatory, whereby it suggests that the child is birthed from an act of adultery. In this context, the child cannot have the biological father’s lineage, even if both the biological father and mother have given their consent, according to the Shariah law. Last but not least, the term ‘illegitimate child’ itself is a legislative term. Thus, if anyone ever needs to use it, he or she has to obtain a decree from the court and it cannot be used freely as to avoid any future complications or issues.

## LIMITATION AND STUDY FORWARD

The limitation of this study is on the current data of illegitimate child which further study should be conducted.

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## AUTHORS CONTRIBUTION

All research work was led by Wan Abdul Fattah Wan Ismail. Data analysis were done by Lukman Abdul Mutalib and Syahirah Abdul Shukor. Methodology and review editing were done by Ahmad Syukran Baharuddin and Zulfaqar Mamat.

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