

**APPLICATION OF ENGLISH LAW IN MALAYSIA AND SINGAPORE:
A COMPARATIVE STUDY**

BY

ABDUL A'BID BIN HUSIN (2011456012)

AMIRAH KHADIJAH BINTI ROSLAN (2011431416)

MISRA ASTHANA BINTI MOHAMED FAZAL (2011269136)

SITI RAUDHAH BINTI RAMLI (2011444582)

Submitted in Partial Fulfillment of the Requirements
for the Bachelor of Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of law

December 2013

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to work of others.

ABSTRACT

The principle of this study is to analyse the application of English law in Malaysia and Singapore. Basically, the application of English law in Malaysia is govern by Section 3 and Section 5 of the Civil Law Act 1956. However, these sections have caused some problems to the development of our own law. These problems have been address by a well prominent academicians, legal practitioners and also judges.

Furthermore, we will make a comparative study with Singapore legal system in which they have managed to untie their relationship with the Civil Law Act 1956 by repealing Section 5 of the Civil Law Act (Singapore) and enacting the Application of English Law Act 1993 to govern the application of English law in their country.

Moreover, we will discuss on the strengths and the weaknesses of the Civil Law Act 1956 (Malaysia) and the Application of English Law Act 1993 (Singapore) in a comprehensive detail.

At the end of this paper, we also provide some recommendations to improve the application of English Law in Malaysia which we hope would help in generating our own Malaysian Common Law.

ACKNOWLEDGEMENT

In the name of Allah, the Most Beneficent, the Most Merciful.

First and foremost, our deepest gratitude we bid to our ever so helpful supervisor, Madam Fatimatuzzahra' Binti Dzulkifli for all her efforts and guidance which leads us to the completion of this project paper. Without her guidance, we might not be able to complete this project paper successfully.

We are also thankful to Dr. Hartini Binti Saripan for her hardwork in teaching us the first stage of this project paper in the Legal Research and Methodology for without her assistance and teaching, we might not be able to come out with an idea to do a project paper on this important area of law.

Special thanks we bid to a list of the panel interview Y.A Dato' Haji Akhtar bin Tahir, (High Court Judge, Shah Alam) Y.A Dato Haji Ahmadi bin Haji Asnawi,(High Court Judge, Shah Alam) Puan Mahyon binti Talib, Y.A, (Session Court Judge, Shah Alam), Y.A. Tuan Vernon Ong, (High Court Judge, Shah Alam), Puan Norshakinah binti Ahmad Kamarudin,(Magistrate in Shah Alam Court) and Puan Nadia Binti Omar,(Senior Assistant Registrar of Shah Alam Court) who spending their precious time to us in giving a lot of information that leads us in conducting our research.

Last but not least, thank you to our most treasured family members for their continuous support, encouragement, and thoughtful advices during the completion of this project paper. Without them, it will be harder for us to complete our very first project paper.

In a nutshell, we hope that this project paper can help other researchers in fulfilling their own research paper as well as to give ideas and guidelines for them on the issue regarding the application of English Law in Malaysia.

TABLE OF CONTENTS

| | |
|------------------|-----|
| Acknowledgement | ii |
| Abstract | iii |
| Table of Content | iv |

CHAPTER ONE: INTRODUCTION

| | |
|----------------------------------|---|
| 1.0 Background of the Research | 1 |
| 1.1 Research Question | 3 |
| 1.2 Objectives of the Research | 3 |
| 1.3 Research Methodology | 3 |
| 1.4 Scope of the Research | 4 |
| 1.5 Limitation of the Research | 4 |
| 1.6 Significance of the Research | 5 |
| 1.7 Conclusion | 5 |

CHAPTER TWO: LITERATURE REVIEW

| | |
|---|----|
| 2.0 Introduction | 6 |
| 2.1 Problems of Section 3 and Section 5 of The Civil Law Act 1956 | 7 |
| 2.1 Philosopher's Views | 8 |
| 2.4 Conclusion | 11 |

CHAPTER THREE: RECEPTION AND APPLICATION OF ENGLISH LAW IN MALAYSIA

| | |
|------------------------|----|
| 3.0 Introduction | 12 |
| 3.1 Straits Settlement | 12 |
| 3.2 Malay States | 14 |

| | |
|--|----|
| 3.3 Borneo States | 15 |
| 3.4 Application of Civil Law Act 1956 (Revised 1972) | 18 |
| 3.5 Conclusion | 23 |

CHAPTER FOUR: RECEPTION AND APPLICATION OF ENGLISH LAW IN SINGAPORE

| | |
|---|----|
| 4.0 Introduction | 24 |
| 4.1 Legislation History of Application Of English Law | 24 |
| 4.1.1 Early Reception of English Law (1826) | 24 |
| 4.1.2 Singapore under Malaysia (1963) | 26 |
| 4.1.3 Singapore Departed From Malaysia (1965) | 26 |
| 4.2 The Application of English Law Act 1993 | 27 |
| 4.3 Conclusion : | 30 |

CHAPTER FIVE: STRENGTHS AND WEAKNESSES

| | |
|--|----|
| 5.0 Introduction | 31 |
| 5.1 Weaknesses of Section 3 and 5 of The Civil Law Act 1956 (Malaysia) | 31 |
| 5.1.1 Weaknesses | 31 |
| 5.2 Strength of Application of English Law Act 1993 (Singapore) | 33 |
| 5.2.1 Strengths | 34 |
| 5.3 Conclusion | 35 |

CHAPTER 6: RECOMMENDATIONS AND CONCLUSION

| | |
|--|----|
| 6.0 Introduction | 36 |
| 6.1 Recommendations | 36 |
| 6.1.1 Teaching Method in Universities Should Be Improved | 36 |
| 6.1.2 Widen The Source of Law | 37 |
| 6.1.3 Review The Law | 38 |