

Statutory Rape and Juvenile Male Offenders: A Maqasid al-Shariah Analysis of Rights and Legal Status in the Malaysian Legal System

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ABSTRACT

This study offers a critical re-examination of Malaysia's statutory rape laws, focusing on the unintended consequences for juvenile males prosecuted under Section 375(g) of the Penal Code. While these strict liability provisions are intended to safeguard minors from sexual exploitation, they often fail to distinguish between coercive abuse and consensual relationships among peers, resulting in the criminalisation of adolescent males who are themselves minors. Through a doctrinal and comparative legal analysis, the research highlights the dissonance between current punitive approaches and the principles of justice embedded in Maqasid al-Shariah, particularly *hifz al-nasl* (protection of lineage), *hifz al-'ird* (protection of dignity), and *al-'adl* (justice). The study further explores the inconsistencies arising from Malaysia's dual legal system and contrasts these with close-in-age exemptions applied in other jurisdictions, which offer a more balanced response. Findings reveal that the existing legal framework leads to significant psychological, social, and developmental harm for young offenders, exacerbating stigma and long-term disadvantage. The paper advocates for comprehensive reform, including introducing close-in-age exemptions, gender-neutral statutory provisions, and rehabilitative justice measures. By integrating Islamic ethical objectives, human rights norms, and contemporary insights into adolescent development, the study proposes a recalibrated approach that upholds child protection and equitable justice within Malaysia's legal landscape.

Keywords: statutory rape, juvenile offenders, legal reform, Maqasid al-Shariah

INTRODUCTION

Under Malaysian criminal law, statutory rape is defined as sexual intercourse with a girl under the age of 16, "with or without her consent" (Malaysian Penal Code, 2006). This legal presumption reflects the view that minors are incapable of giving meaningful consent to sexual activity. In parallel, Malaysia has enacted key protective legislation such as the Child Act 2001 and the Sexual Offences Against Children Act 2017 (SOACA 2017), which expand protection mechanisms to include offences like grooming, child pornography, and online exploitation (UNICEF Malaysia, 2023). While these frameworks aim to protect minors, concerns arise when the alleged offender is also a minor.

Observations from legal and social contexts suggest that a considerable number of statutory rape cases in Malaysia involve male adolescents who were involved in consensual romantic relationships with girls of similar age. Despite their limited emotional maturity and understanding of the law, these boys are often prosecuted under statutory rape provisions and treated as if they were fully culpable adults. This creates a fundamental tension between the protective intent of the law and its punitive application, particularly when the male minors themselves may also be vulnerable due to factors such as peer pressure or lack of legal awareness.

Conversely, Malaysia has seen high-profile cases where adult men accused of raping underage girls avoided punishment by marrying their victims effectively using marriage as legal cover (Malaysian Bar, 2017). These incidents triggered national outrage and highlighted inconsistencies in the legal treatment of offenders. At the same time, Malaysia's dual legal system presents unique challenges: Muslim youths may be prosecuted under Syariah laws (e.g., *zina*, *khalwat*), while non-Muslims are subjected only to civil procedures. Judges have even questioned the validity of such marriages that appear strategically arranged to evade criminal liability.

From an Islamic legal perspective, the Qur'an strictly forbids unlawful sexual relations and emphasises safeguarding human dignity (Rosidi et al., 2025). Allah says:

وَالَّذِينَ هُمْ لِأَفْوَاجِهِمْ حَافِظُونَ ﴿٦٧﴾ إِلَّا عَلَىٰ أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ ﴿٦٨﴾ فَمَنْ ابْتَغَىٰ وَرَاءَ ذَلِكَ فَأُولَٰئِكَ هُمُ الْعَادُونَ ﴿٦٩﴾

“And those who guard their private parts except with their wives or those their right hands possess, for indeed, they are not to be blamed but whoever seeks beyond that, then those are the transgressors.” (al-Mu'minun, 23:5-7)

Islamic jurisprudence requires courts to consider intent (niyyah), mental and physical capacity (aqil baligh), and surrounding conditions before issuing punishments. While predatory sexual misconduct is severely penalised, Islam also upholds justice through differentiated judgment when minors are involved (Mohammad & Barroso, 2024). In line with international standards, the Convention on the Rights of the Child (CRC) advocates that children accused of offences must be treated in a manner consistent with the promotion of their dignity and worth, and that rehabilitation should be prioritised (UNICEF, 2020; ECPAT International, 2022). However, in Malaysia, male minors continue to face adult-equivalent criminal liability with limited consideration of their psychological development or socio-economic background.

Therefore, this study re-analyses statutory rape offences involving underage girls, with special focus on the position and rights of underage male accused. It examines Malaysia's civil and Syariah legal provisions, considering Islamic ethics, international human rights standards, and empirical research. Ultimately, the goal is to propose a more just, compassionate, and child-sensitive legal framework that protects all minors without compromising fairness.

LITERATURE REVIEW

The Confusion between Crimes of Zina and Statutory Rape in Malaysia: The Needs for Clarification

The study conducted by Nur Aina Abdulah and Nur Al-Farhain Kamaruzaman (2022) addresses a significant issue in Malaysia's criminal justice system namely, the confusion between the Islamic crime of *zina* (illicit sexual intercourse) and statutory rape under civil law. The study focuses specifically on cases involving underage adolescents, who are often subjected to statutory rape charges even when the sexual relationship occurs with mutual consent. The central question raised by this research is how and why Malaysia's civil legal framework classifies consensual sexual acts between underage adolescents as rape, while under Islamic law, the presence of consent (*al-riḍā*) is the key factor in distinguishing between *zina* and rape. In Islamic jurisprudence, *zina* and rape are differentiated based on whether consent was present, and both parties engaging in consensual *zina* would be equally held accountable.

In contrast, under Malaysia's civil law particularly Section 375(g) of the Penal Code, any sexual intercourse with a girl under the age of 16 is automatically considered rape, regardless of mutual consent. This reflects a strict liability approach, in which intention or actual consent is not a relevant legal consideration. According to the study, such an approach has led to injustices against young male adolescents who are partners to underage girls in consensual relationships, as they are automatically treated as perpetrators of a serious sexual crime. The law sets the age of 16 as the minimum legal age for valid consent, which means that boys aged 16–18 who engage in consensual sexual acts with slightly younger partners may face penalties of up to 20 years' imprisonment and whipping, despite the absence of coercion or exploitative elements.

Furthermore, the study criticises the current legal approach for disproportionately punishing male adolescents in consensual relationships, while under Islamic law, both parties involved in consensual *zina* are held equally accountable. This reveals a clear double standard within the current legal system, where young men are criminalised, and young women are automatically classified as victims, without regard for the actual dynamics of the relationship. This raises questions about procedural and substantive justice and exposes the significant gap between civil law approaches and Islamic legal principles, which emphasise fairness and shared responsibility more.

The authors suggest that religious authorities such as JAKIM (Department of Islamic Development Malaysia)

and the national fatwa institutions should provide more explicit guidance on this matter to prevent ongoing confusion between the concepts of *zina* and statutory rape, especially among youth and the public. At the same time, they stress the need to reevaluate the rigid stance of civil law toward adolescent consent and recommend the introduction of legal provisions such as *close-in-age exemptions*, which would distinguish between exploitative relationships and genuinely consensual ones between peers. This is crucial in ensuring that laws serve their intended purpose of protecting and educating youth rather than punishing them harshly without consideration of psychological maturity or social context.

Overall, the study by Nur Aina and Nur Al-Farhain highlights a critical flaw in Malaysia's justice system that statutory rape laws, though intended to protect, may in practice unfairly penalize young male adolescents who engage in consensual sexual activity with similarly aged partners. Therefore, there is an urgent need for legal reform that is fairer, more balanced, and aligned with both Islamic justice principles and the lived realities of modern youth.

International and Comparative Perspective of Statutory Rape Law

The book authored by Clare McGlynn and Vanessa E. Munro (2010), *Rethinking Rape Law: International and Comparative Perspectives*, provides a critically valuable framework for reassessing rape laws in Malaysia, particularly those involving underage adolescents. One of the central themes emphasized in this book is the need to reevaluate the concept of consent in rape cases, especially when applied rigidly to complex situations such as consensual sexual relationships between teenagers. Under Malaysian civil law, Section 375(g) of the Penal Code clearly states that sexual intercourse with a girl under the age of 16 constitutes rape, regardless of mutual consent. This approach aligns closely with the strict liability model, which the book also critiques for failing to consider power dynamics, age differences, social context, or actual mutual consent between the parties involved.

McGlynn and Munro argue that legal approaches that rely too heavily on narrow definitions of consent and coercion often conflict with social realities and fail to deliver substantive justice, particularly for adolescent male defendants. In Malaysia's statutory rape context, teenage boys aged 16–18 can be sentenced to up to 20 years' imprisonment and whipping for engaging in sexual acts with their underage partners. In this regard, *Rethinking Rape Law* offers academic justification and human rights-based principles that can be used to challenge such rigid legal frameworks. For example, Munro (2010) proposes a "consent-plus" model, which considers consent in a broader context including minor age differences (close-in-age), maturity levels, and whether actual coercion or exploitation occurred.

The authors also stress how legal systems that fail to account for gender and social imbalances often cause secondary victimisation not only to survivors but also to young male defendants who may lack criminal intent but are treated like adult offenders. In the Malaysian context, this is apparent in how young male offenders are prosecuted under statutory rape laws even when the relationship was mutually consensual. According to Islamic legal principles, as discussed in local academic studies, both individuals in a consensual sexual act should be held equally accountable, not just the male. The perspective from *Rethinking Rape Law* supports the notion that laws should assess structural power imbalances and social context, rather than rely solely on technical facts like age or gender.

The book also raises significant concerns about the effectiveness of legal reforms when legal culture shifts, judicial training, prosecutorial discretion, police conduct, and public attitudes do not accompany them. This concern is highly relevant to Malaysia, where many statutory rape cases involving adolescents are judged through a moralistic lens or gender stereotypes for instance, the presumption that males are always the aggressors, even in consensual peer relationships. Therefore, the arguments presented in this book serve as a reference point for the urgent need for Malaysia to pursue legal reforms that are not only legalistic but also structural, social, and intersectional. This includes reviewing the age of legal consent, introducing close-in-age exceptions, and strengthening rehabilitative principles in cases involving underage offenders.

In conclusion, *Rethinking Rape Law* provides a strong theoretical foundation for reassessing and challenging the justice of statutory rape laws in Malaysia. It underscores that legal reform without a concurrent shift in legal and cultural paradigms cannot achieve justice for victims and young defendants navigating complex developmental

stages. Therefore, today's Malaysian legal system should adopt a more balanced, fair, contextual, and juvenile justice-oriented approach.

Minimum Age of Criminal Responsibility for Children

A study by Aminuddin Mustaffa (2016) examined the determination of the minimum age of criminal responsibility for children under Malaysian law from the perspective of international legal standards. The study emphasises that setting a minimum age is crucial to ensuring justice for children in conflict with the law. However, it remains a controversial issue globally due to inconsistencies in legal practices across various jurisdictions. The author explores two main approaches in determining criminal responsibility: one based on assessing individual mental capacity and the other on fixed immunity from prosecution based on age. He further highlights neuroscience and developmental psychology findings, which suggest that children under 12 generally lack the cognitive and emotional maturity to bear criminal liability.

Through an analysis of international legal instruments such as the *Convention on the Rights of the Child (CRC)* and the *Beijing Rules*, the study notes that international guidelines recommend that the minimum age of criminal responsibility should not be too low and ideally be set at 12 years or older. However, Malaysian law, specifically under Sections 82 and 83 of the Penal Code, sets the minimum age at just 10 years and applies the *doli incapax* doctrine, which presumes children between 10 and 12 to be incapable of committing crimes unless proven otherwise. This doctrine, already abolished in countries like England due to its vague and impractical nature, is still applied in Malaysia. The author also cites UNICEF research indicating that magistrates in Malaysia's Children's Courts often lack a clear understanding of how to use these sections, raising concerns about the effectiveness of legal protections for children.

In conclusion, the study recommends that Malaysia increase the minimum age of criminal responsibility to at least 12 years in alignment with international standards and review the continued application of the *doli incapax* principle in the local context. The study also calls for the removal of any exceptions in the application of minimum age laws, especially in cases involving national security or anti-terrorism legislation and stresses the importance of legally defining the relevant age as that at the time the offence was committed, not at the time of arrest or prosecution. This research serves as an important foundation for reforming the juvenile justice system in Malaysia to reflect better principles of justice, scientific evidence, and international legal norms.

METHODOLOGY

This research employs a qualitative, literature-based analysis to explore the treatment of underage male defendants accused of statutory rape in Malaysia. The methodology integrates doctrinal legal research with comparative and interpretive approaches. Primary sources include Malaysia's Penal Code (Act 574), relevant provisions of Syariah law, and the Federal Constitution. International instruments such as the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and General Comments by the UN Committee on the Rights of the Child were analysed to assess compliance with international human rights norms.

The review also incorporates empirical findings from existing reports and journal articles focusing on adolescent sexuality, criminal responsibility, and child marriage. These include qualitative interviews conducted by previous researchers with probation officers, police officers, and youth detainees (Mohammad & Barroso, 2025; Abdullah & Haneef, 2017). The study adopts a critical perspective, highlighting gaps, inconsistencies, and practical implications within Malaysia's dual legal system.

Comparative legal analysis was also employed to examine how other jurisdictions manage similar issues. Focus was on countries with close-in-age exemptions and those with harmonised age-of-consent and minimum marriage age laws. Finally, Islamic jurisprudence sources were consulted to understand the principles guiding Syariah court decisions involving zina and underage sexual activity.

RESEARCH FINDINGS

The analysis found that rape offences involving underage girls in Malaysia fall under the statutory rape provision,

where sexual intercourse with a girl under the age of 16 is considered rape regardless of consent (Penal Code, Section 375(g)). This provision plays a crucial role in safeguarding children. However, it simultaneously raises critical questions about fairness, particularly when the accused is a young male who is also underage. The law in its current form does not always distinguish between a predatory adult and a teenage boy engaged in a consensual relationship. As a result, some adolescents may face penalties that do not align with the context or gravity of their actions.

From a child protection perspective, Sections 82 and 83 of the Penal Code state that children under 10 cannot be held criminally liable. For those aged between 10 and 12, criminal responsibility only arises if it can be proven that the child understood the wrongfulness of the act. Complementing this, the Child Act 2001 provides legal safeguards for juvenile offenders, including the right to privacy in court proceedings and access to rehabilitative rather than punitive measures (Child Act, 2001). These provisions reflect an understanding that children, due to their age and level of maturity, deserve a justice process that is both protective and reformative.

Islamic teachings strictly prohibit rape and all forms of injustice but also uphold the principle of fairness and due consideration (Rosidi et al., 2022). The Qur'an denounces corruption and false accusations in emphatic terms:

وَإِذَا قِيلَ لَهُمْ لَا تُفْسِدُوا فِي الْأَرْضِ قَالُوا إِنَّمَا نَحْنُ مُصْلِحُونَ ﴿١١﴾ أَلَا إِنَّهُمْ هُمُ الْمُفْسِدُونَ وَلَكِنْ لَا يَشْعُرُونَ

“And when it is said to them, ‘Do not cause corruption on the earth,’ they say, ‘We are only reformers.’ Unquestionably, they are the corrupters, but they perceive [it] not.”

(Surah al-Baqarah, 2:11–12)

Considering this, while the protection of underage girls from sexual exploitation remains a top priority, it is equally important to ensure that the legal treatment of underage male offenders is grounded in justice and compassion. A more balanced approach is needed that considers the accused's age, intent, and psychological development before imposing lifelong consequences.

DISCUSSION

Justice and the Rights of Adolescent Boys from the Perspective of Maqasid al-Shariah

Within the comprehensive framework of Maqasid al-Shariah, the rights of adolescent boys particularly those implicated in statutory rape cases must be understood through the lens of fundamental Islamic legal objectives: the preservation of life (ḥifẓ al-nafs), dignity (ḥifẓ al-‘ird), and justice (al-‘adl) (Rosidi et al., 2022). The Qur'an repeatedly emphasises the intrinsic honour and protection owed to every human being, as articulated in Surah al-Isra' (17:70):

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ

“And indeed, we have honoured the children of Adam.”

Tafsir scholars interpret this honour as encompassing all facets of humanity, regardless of age or gender, thus underscoring the right of adolescent boys to just and compassionate treatment. Furthermore, the principle of justice is explicitly mandated in Surah al-Nahl (16:90):

إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ

“Indeed, Allah commands justice and doing good.”

This command extends to all legal and social processes, compelling authorities and communities to ensure fairness and to avoid discrimination, especially when dealing with vulnerable youth. In circumstances where adolescent boys are prosecuted for sexual offences, these Quranic imperatives require that their voices be heard and their developmental context be considered. The right to defend oneself after being wronged is affirmed in Surah al-Shura (42:41):

"وَلَمَنْ أَتَتْصَرَ بَعْدَ ظُلْمِهِ فَأُولَئِكَ مَا عَلَيْهِمْ مِّن سَبِيلٍ"

"And whoever defends himself after being wronged for such, there is no blame against them."

This establishes the foundational right of juveniles to present their defence and not be subject to social or legal condemnation without due process. From the perspective of Maqasid al-Shariah, protecting adolescent boys from legal overreach and undue stigmatisation is not merely a humanitarian imperative but a religious obligation. Islamic law demands that punishment and rehabilitation be balanced, ensuring that the welfare, dignity, and long-term development of all minors, both victims and accused, are preserved. Accordingly, statutory rape laws and their enforcement must align with these objectives, offering not only protection from exploitation but also equitable justice, restorative interventions, and pathways to rehabilitation. This approach harmonises Islamic ethical objectives with contemporary understandings of juvenile justice, reflecting the true spirit of Maqasid al-Shariah.

The Proposed Legal Reforms That Need to Be Implemented

The findings of this study underscore the urgent necessity for comprehensive reforms within Malaysia's statutory rape legal architecture, to better reflect both the realities of adolescent development and the ethical imperatives of Maqasid al-Shariah. The prevailing legal rigidity, particularly the lack of close-in-age exemptions, results in the indiscriminate criminalisation of consensual sexual conduct between adolescents, undermining the principle of proportionality that is central to both Islamic justice and contemporary criminal law (Mohammad & Barroso, 2025). Such legal inflexibility not only produces a sense of injustice but also carries disproportionate lifelong consequences for male juveniles in peer relationships that are neither coercive nor exploitative.

Additionally, the current gender asymmetry in prosecution raises serious constitutional and human rights concerns. The frequent targeting of male adolescents for prosecution, while female peers in similar consensual relationships remain largely unaffected, is at odds with Article 8 of the Federal Constitution, which guarantees equality before the law (Lim, 2020). This institutionalised disparity contravenes Malaysia's international obligations, particularly under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which calls for the removal of all discriminatory legal provisions.

Legal contradictions between Malaysia's civil and Syariah legal systems further complicate statutory rape enforcement. While civil law criminalises all underage sexual activity irrespective of marital status, Syariah law, under specific circumstances, permits child marriage. This dichotomy can result in situations where a girl married under Syariah law may be simultaneously classified as a statutory rape victim under civil law (Azmi, 2019), exposing systemic inconsistencies and undermining legal coherence.

In contrast, Islamic legal tradition, as advanced by contemporary jurists (Kamali, 2018; Rosidi et al., 2022), advocates a more nuanced and rehabilitative approach, rooted in the higher objectives of Shariah (Maqasid al-Shariah), particularly the principles of justice, mercy, and the preservation of human dignity (ḥifẓ al-'ird). This approach suggests that Syariah courts should prioritise restorative and educational measures for adolescents involved in consensual peer relationships, rather than punitive sanctions.

This rights-based paradigm is echoed in international law, most notably in the Convention on the Rights of the Child (CRC), which obliges states to ensure that legal responses are anchored in the child's best interests. The UN Committee on the Rights of the Child (2020) has specifically recommended the decriminalisation of consensual sexual activity between close-in-age peers. Comparative legal practice from jurisdictions such as Canada, Australia, and parts of Europe demonstrates the viability of implementing "Romeo and Juliet" clauses, gender-neutral enforcement, and providing developmentally appropriate rehabilitative interventions.

Accordingly, Malaysia's statutory rape framework should be reformed to:

1. Introduce close-in-age exemptions to distinguish between exploitative conduct and consensual peer activity.
2. Enforce gender-neutral provisions to eradicate institutional bias and ensure equality before the law.

3. Harmonise civil and Syariah legal provisions to prevent conflicting outcomes and uphold the coherence of Malaysia's dual legal system.
4. Prioritise rehabilitative and educational interventions over punitive measures for adolescents, by the Maqasid al-Shariah and international child rights standards.

Such reforms would better serve the spirit and objectives of Islamic law and Malaysia's constitutional and international obligations, ultimately fostering a more just, humane, and effective juvenile justice system.

Social and psychological implications for both parties

The ramifications of statutory rape laws on adolescents involved in consensual relationships are far-reaching, affecting both female victims and male juvenile offenders in profound ways.

For adolescent girls, legal protection as “victims” often does not shield them from deep social stigma, especially in rural and traditional communities. Despite the intent of civil law to safeguard their welfare, these girls are frequently subjected to severe social condemnation, labelled as “immoral” or “dishonest” (Nair, 2018). Such stigma can lead to isolation, expulsion from school, rejection by families, and in many cases, coerced marriages to the perpetrator as a means to restore familial honour (Mohd Yusof & Kassim, 2020). These socially imposed penalties disregard the long-term welfare of the adolescent, often causing significant psychological harm, including trauma, depression, loss of self-esteem, and persistent feelings of guilt (UNICEF Malaysia, 2019). For example, media coverage has highlighted cases where girls became pregnant from consensual relationships and, despite the absence of coercion, faced expulsion and widespread public scorn (The Star, 2015). Such responses demonstrate a gap between the law's protective aims and societal practice, undermining the maqasid al-shariah objective of protecting dignity (*hifz al-'ird*).

For male adolescents prosecuted as offenders, even in consensual scenarios, the consequences are equally severe. Malaysian law, under strict liability provisions, categorises any sexual activity with an underage girl as statutory rape, regardless of mutual consent (Penal Code, Section 375, 2006). Consequently, adolescent boys are stigmatised as “rapists,” facing social ostracism, disrupted family relationships, and a loss of everyday adolescent experiences. Psychologically, they are susceptible to anxiety, depression, social withdrawal, and diminished self-worth (Ibrahim & Wahab, 2021). High-profile cases, such as the 17-year-old in Sarawak sentenced for a consensual relationship with a 15-year-old girlfriend, underscore the punitive impact of such laws even in the absence of criminal intent (Malaysiakini, 2017). These outcomes may lead to negative self-identities, resentment towards the justice system, and impaired psychosocial development (Azmi, 2022).

Comparison between approaches in Malaysia and other countries

A comparative analysis of statutory rape legislation reveals significant differences between the legal frameworks in Malaysia and those adopted by several Western jurisdictions. Countries such as Germany, Canada, and numerous U.S. states have enacted “close-in-age” exemptions within their statutory rape laws, recognising the developmental realities of adolescent sexuality and the importance of contextual consent (Levesque, 2000; Department of Justice Canada, 2020). These provisions allow for consensual sexual relationships between minors or between a minor and a young adult within a defined age gap without triggering automatic criminal prosecution, provided there is no evidence of coercion, exploitation, or significant power imbalance. Similarly, in France and the Netherlands, authorities exercise prosecutorial discretion and assess the broader context of the relationship, including the presence or absence of genuine consent and exploitative dynamics (Hollander, 2016). Such models reflect a holistic understanding of adolescent development, moral agency, and the intent of statutory protection laws, privileging proportionality and the child's best interests over rigid age thresholds.

In stark contrast, the statutory rape laws in Malaysia and Singapore are marked by their rigidity and absolutism. Under Section 375 of Malaysia's Penal Code (Act 574), any sexual act involving a female under sixteen is categorically defined as rape, irrespective of consent. Legal responsibility is almost exclusively assigned to the male party, while the female minor is automatically classified as a victim regardless of her agency or mutual participation (Ibrahim & Wahab, 2021). Although this approach is intended to provide maximum protection to adolescent girls, it has generated considerable criticism for its failure to distinguish between exploitative,

predatory acts and consensual adolescent relationships. Moreover, it has led to inequitable outcomes, such as the common practice of parents reporting male partners to shield their daughters from social shame, even when both parties are of comparable age and consensually involved (Azmi, 2022). Such blanket criminalisation undermines the legal concept of justice and the Maqasid al-Shariah objective of safeguarding dignity (*hifz deport al-‘ird*) and promoting fairness (*al-‘adl*) (Rosidi et al., 2022).

Legal scholars increasingly advocate for nuanced reform in Malaysia’s statutory rape framework, proposing the adoption of close-in-age exemptions and gender-neutral application, or the transfer of consensual minor-to-minor cases from the criminal justice system to the Syariah courts under zina provisions (Shuaib, 2020). These reforms would enable a more proportionate, restorative, and maqasid-driven response, distinguishing between genuine harm and mutually consensual adolescent behaviour, and harmonising statutory protection with Islamic legal and ethical imperatives.

Malaysia, therefore, stands to benefit from international best practices that recognise the complexities of adolescent sexuality while ensuring robust protection against exploitation. By integrating context-sensitive criteria, Malaysia can more effectively realise the higher objectives of Islamic law: to protect life, honour, and dignity, and to ensure justice for all parties.

CONCLUSION

This study demonstrates the urgent need to re-examine Malaysia’s statutory rape laws, particularly their impact on adolescent males engaged in consensual relationships. While the strict liability approach under Section 375(g) of the Penal Code is designed to protect minors, its indiscriminate application often leads to the disproportionate criminalisation of young males, frequently overlooking issues of consent, minimal age differences, and the realities of adolescent development. This punitive framework risks undermining justice and fairness, especially when intent, maturity, and mutual participation are not adequately considered.

From both *Maqasid al-Shariah* and international legal perspectives, these shortcomings are stark. Islamic jurisprudence prioritises proportionality, mercy, and the intent behind actions, distinguishing clearly between consensual acts (*zina*) and acts of coercion or exploitation (*ighṭiṣāb*/rape). Similarly, the United Nations Convention on the Rights of the Child (CRC) emphasises rehabilitative justice, the best interests of the child, and the protection of dignity and development for all minors.

The Malaysian legal system must move toward a more nuanced and harmonised framework for genuine progress. Recommended reforms include the adoption of close-in-age exemptions, gender-neutral application of statutory rape statutes, and a stronger focus on rehabilitative, rather than punitive, responses for adolescent offenders. Legal harmonisation between civil and Syariah courts is also crucial, ensuring that protections and principles are consistently applied.

By aligning statutory rape laws with the higher objectives of Islamic law protection of dignity (*hifz al-‘ird*), justice (*al-‘adl*), and the welfare of youth as well as with international child rights standards, Malaysia can foster a legal environment that genuinely safeguards all children while upholding fairness and compassion. Future research should empirically assess the lived consequences of these laws and rigorously evaluate proposed reforms to ensure a balanced, just, and child-centric legal system.

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