

ABSTRACT

UswatulFikriyah, Student ID Number 11210071. **Engagement Cancellation and Its Legal Implication in Malaysia (Woman's Rights Perspective)**. Thesis. Al-Ahwal Al-Syakhshiyyah Department of Sharia Faculty, State Islamic University Maulana Malik Ibrahim of Malang. Supervisor: Dr. Hj. UmiSumbulah, M.Ag.

Key Words: Engagement Cancellation, Legal Implication, Woman's Rights

Process of Marriage in Malaysia is commonly undertaken with various accompanying Customs. It is accepted in Islam as something good and considered beneficial like *peminangan* or Engagement. Enactment of Islamic Family Law which is used in States of Malaysia essentially does not give meaningful and specific term of engagement. In one section of Islamic Family Law mentions agreement for marriage that done orally or in writing and done directly or through intermediary i.e. the man who trusts to express application to a girl. The regulation about engagement cancellation is contained in Section 15 Islamic Family Law Federal Territory 1984 Malaysia. This section explains that engagement cancellation has legal implication although according to opinion of scholars (*jumhur ulamâ*) engagement is not marriage contract. In this matter, woman in Malaysia still blur about their rights in the case of engagement cancellation that has been regulated in Legislation. Many of women are ruined because of engagement cancellation in financial and non- financial side.

Base on the background above, the problems are as follows: 1) what is legal implication of engagement cancellation in Malaysia, 2) what are woman's protection aspects in Act 303 Islamic Family Law Federal Territory 1984 Malaysia viewed from woman's rights perspective.

This research is normative research which use library material or library research. Approach used in this research is statue approach. Data collecting method is done by documentation method begun from legal material determination, legal material inventurization, and legal material observation comprehensively, systematically, and structural analysis.

The result of this research can get the conclusion that engagement in Malaysia contains legal implication as explain in section 15 Islamic Family Law Federal Territory 1984 Malaysia. It is because engagement is considered as a contract. All of parties that involved in this contract must obey it as long as there is no legal reason to deny it. Implications of engagement cancellation in Malaysia are someone who become the victim of engagement cancellation can absolutely posses all of gifts given in time of engagement. Conversely, someone who cancels the engagement must return all of gifts and carry all of losses expenses to prepare engagement and wedding party. In this matter, to get their rights the victim of engagement cancellation can do prosecution in Syariah Court. Regulation of Act 303 Islamic Family Law Federal Territory 1984 Malaysia contains woman's rights protection aspect. In this Legislation woman has their rights according to her position, i.e. rights before marriage, rights in marriage, and rights after marriage is broken. The purpose of Woman's rights protection is to woman can

get her rights in marriage life and support gender equality in family life. This woman's protection aspects are accordance with some views of gender figure like Asghar Ali Engineer, Qasim Amin, and other woman's rights view.