

* Civil Law
Matrimonial Rights
in Malaysia

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Matrimonial Rights in Malaysia:

Planning and Taxation

Sime Darby Convention Centre

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* MAINTENANCE OF SPOUSE AND CHILDREN

- * Law Reform (Marriage and Divorce) Act 1976 (*LRA*)
- * Married Women and Children (Maintenance) Act 1950 (*MWCMA*)

* MATRIMONIAL ASSETS

- * LRA

* **OUTLINE OF
PRESENTATION**

i. Legitimate children: S3(1) MWCM and S92 LRA

Father bears the primary responsibility to maintain children (S93(1) LRA).

Mother may be ordered to do so if it is reasonable having regard to her means (S93(3) LRA)

* MAINTENANCE OF CHILDREN

ii. a person may be ordered to maintain his illegitimate child (S3(2) MWCM); and

iii. man to maintain child accepted as a member of the family (S99 LRA).

* MAINTENANCE OF CHILDREN

Duration of maintenance.

- i. Until the child is 18 years old (S95 LRA).
- ii. Until child ceases physical or mental disability (S95 LRA).
- iii. Guardian is to maintain the child until she is 21 years old (S2(2) (a) (ii) Guardianship of Infants Act 1961).

* MAINTENANCE OF CHILDREN

How much to pay?

A reasonable sum having regard to his or her means and station in life (S92 LRA).

* MAINTENANCE OF
CHILDREN

Recovery of arrears of maintenance

Not recoverable if accrued more than 3 years before institution of the suit (S98 LRA).

* MAINTENANCE OF
CHILDREN

S77 LRA

(1) Husbands may be ordered to pay maintenance of wives.

(2) Wives may be ordered to maintain husbands if husbands are wholly or partially incapacitated from earning a livelihood because of physical or mental injury or ill health and it is reasonable to so to order

* MAINTENANCE OF
SPOUSES

Duration of maintenance.

- i. Until death of husband or wife (S81 LRA).
- ii. The recipient's marriage to or living in adultery with another person.

* MAINTENANCE OF
SPOUSES

How much maintenance to pay (S78 LRA)?

- i. Means and needs of parties regardless of proportion to the income of the payer.

- ii. Degree of responsibility which the court apportions to each party for the breakdown of the marriage

 **MAINTENANCE OF
SPOUSES**

Recovery of arrears of maintenance

Not recoverable if accrued more than 3 years before institution of the suit (S86 LRA).

* MAINTENANCE OF
SPOUSES

What are matrimonial assets?

- i. Any assets acquired by them during marriage (S76).

- ii. Assets owned before marriage which were substantially improved during the marriage by the other party or their joint efforts (S76(5) LRA).

 **MATRIMONIAL ASSETS**

How to divide - S76(1) and (2) LRA?

Assets acquired by joint effort.

i. Extent of contribution in money, property or works towards the acquisition of the assets.

ii. Any debt contracted for their joint benefit.

iii. Needs of minor children.

 **MATRIMONIAL ASSETS**

How to divide - S76(3), (4) and (5) LRA?

Assets acquired by the sole effort of 1 party.

i. Extent of contribution by the other party to the welfare of the family.

ii. Needs of minor children.

iii. Party by whose efforts the assets were acquired shall receive a greater proportion.

 **MATRIMONIAL ASSETS**

All forms as available to other civil matters
e.g.,

1. Judgement Debtor Summons.

2. Bankruptcy.

If for maintenance, to carry out JDS
first.

3. Seizure and sale.

4. Garnishee Proceedings.



ENFORCEMENT

5. Committal Proceedings.

- Consent orders
- Standard of Proof

 **ENFORCEMENT**