

## Doli Incapax: The Relevancy of Section 113 of the Evidence Act 1950 Relating to Child Rape in Malaysia

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### Abstract

Malaysia has witnessed a concerning rise in sexual crimes involving minors. This increase is attributable to several factors including technological advancements, the widespread availability of pornographic material, and inadequate parental supervision. This study critically examines Malaysia's legal framework specifically Section 113 of the Evidence Act 1950 in addressing the effect on the child victim of rape. The research focused on assessing whether current laws are sufficient and appropriate, given the growing trend of sexual offenses committed by minors and the contributing environmental factors. Employing doctrinal research methodology, this study drew on a variety of library-based resources, such as academic journals, books, and online databases to analyse the legal landscape. The research revealed that existing legislation has notable shortcomings, particularly in handling the complexities of juvenile crimes and balancing rehabilitative approaches with punitive ones. A comparative study of England's legal system provides insights into potential improvements and reforms that could be applied to the Malaysian context. The study concluded by advocating for legislative changes that promote a more effective framework for both preventing and penalizing juvenile rape offenses. Emphasizing a dual approach that includes both rehabilitation and societal safety, the recommendations aim to enhance the current juvenile justice system. This research ultimately contributes to the broader discourse on juvenile justice by proposing practical reforms for the legal treatment of young offenders in Malaysia.

**Keywords:** Child Offender, Rape, Punishment, *Doli Incapax*, Malaysia

**Introduction**

Over the past few decades, sexual crimes including rape and have become two of the major problems in society. With the advancement of technology, rape has become one of the offences committed by children due to some factors such as easy access to pornography and lack of supervision by parents. This study analyzes Malaysia's legal position regarding this issue since there is a slight difference in the context of the age of criminal responsibility for rape and the existence of a specific provision about the presumption of incapacity for rape by male children in Malaysia. Rape is generally governed by sections 375 and 376 of the Penal Code. However, section 113 of the Evidence Act 1950 (the EA 1950) will be focused as the law governing the presumption of inability of a child under the age of 13 to commit rape. In the year of sophisticated technology, people are provided with various facilities to ease their lives. However, these facilities also have negative influence on the development of children and teenagers. Through the development of mass media, many children were influenced and involved in the commission of crimes such as sexual offences, vandalism, delinquency, and rape crimes. In 2019, Malaysia was shocked by the news of a 12-year-old child who is believed to have raped a 4-year-old child his mother babysat as many as three times (Arop, 2019). The rate of juvenile crime in Malaysia also increases every year.

The Malaysian Department of Statistics reported that the number of children involved in crime in 2020 has increased by 10.5% to 5,342 cases compared to the previous year (4,833 cases). The offence increased by 15.7% to 4,916 cases, while repeated offences recorded a decrease of 27.2% to 426 cases as compared to the previous year (Department of Statistics Malaysia, 2021). The latest annual statistical report shows the number of children in conflict with the law which recorded up to 3,457 cases in 2021. Boys accounted for 92% of the total cases, which is 3,171 cases, while girls only accounted for 8% (286 cases) of the total cases (Department of Statistics Malaysia, 2021). Recently, on 21 February 2023, *Berita Harian* reported the case of 2 teenage boys who allegedly raped a 12-year-old girl (Abd Manap, 2023).

Section 375(a) of the Penal Code provides that a man is said to commit rape if he has sexual intercourse with a woman against her will. Based on the definition of rape by Mueller & Ross (1980) in the book entitled *Sexual Conduct and the Law*, rape is an act of enforced or forceful sexual intercourse with a woman without her consent. This act required penetration of penis into the vagina. As the Malaysian law analyses such a definition, the law considers conclusively that boys under the age of 13 are not capable of doing so with the thought that these children are innocent and don't have carnal knowledge. However, the emission of semen is not required in the commission of the offence. Thus, this research aims to analyze the legal elements of penetration in the definition of rape and the application of Section 113 of the EA 1950 to rape offences committed by children in Malaysia. It also examines the effects of rape on the child victims and the laws in England, and proposes solutions to address the rise in child-perpetrated rape cases in Malaysia. It compares the presumption of incapacity for rape in Malaysia, applicable to children under 13, with the similar presumption in England, which applies to those under 14, and explain the origins of these legal principles. It provides legal insights into similar cases in England and offers recommendations to lawmakers, schools, guardians, NGOs, and community leaders to better monitor and address this issue.

**Literature Review**

Offences committed by minors are discussed widely in the book entitled *Jenayah Kanak-Kanak dan Undang-Undang Malaysia* by Anita Abdul Rahim (Rahim, 2012). It focused on the concept of criminal liability for children, rape and sexual offences committed by child offenders, and punishment imposed on child offenders in Malaysia. It also discussed the abolishment of *doli incapax* in England. However, the book does not address several issues such as the current law pertaining to child offenders in England and the purpose of punishment (retaliation, deterrence, rehabilitation, incapacitation) under criminal law.

Rape was defined in Sections 375 and 376 of the Penal Code. In *Review of Punishment for Statutory Rape in Malaysia* (Leow, 2017), the author stated that the definition of rape is still narrow as it is merely confined to penile-vaginal penetration without extending to other forms of sexual offence. The author suggests the expansion of the definition of statutory rape and the introduction of a sentencing guideline in rape cases like those in Singapore. However, it focuses on examining the approach taken by the courts in sentencing statutory rape offenders in Malaysia and giving recommendations after considering social changes. It only discusses statutory rape where a minor consented to the act in Malaysia and does not relate to Section 113 of the EA 1950 nor position in England.

The scope of protection offered by Section 375 of Penal Code is examined by Gan Boon Yi (2014). The study advised that such provision to be expanded to address predicted societal issues. As it is a gender-based provision that only recognizes penile penetration as a kind of rape, the researcher finds that the provision needs to be updated. Beyond that, it should be noted that there are a few reasons why victims of rape do not report their cases to the law enforcement. These reasons include the victims' feelings of shame and their desire to keep their misfortune from being known to others, as well as their fear of being killed by the perpetrator if they report the incident to the police. The victims' psychological growth and well-being are undoubtedly impacted by this, as is the legal system's ability to provide victims and society with a feeling of justice. In order to overcome or settle these rape cases, victim aspects are crucial. This calls for the victims' bravery in reporting the crime to the police, as most victims of rape under threat will be performed again by actors, leaving the victims traumatized and afraid. Anticipating this grievance, the case can be initiated, and the inspection process completed to ensure that the victims receive justice for their experiences. The victim may sue the convicted party for damages or compensation under the terms of the positive law. The author discusses the effect of rape crime on the victim and suggestion to extend the scope of section 375 of Penal Code. However, the study only focuses on examining section 375 of the Penal Code and does not relate it to section 113 of the EA 1950 or rape crime committed by children.

UKM researchers on *Sentencing Child Offenders in Malaysia: When Practice Meets Its Purpose* (Randawar et al., 2022) examined the challenges that judges encounter when selecting appropriate sentencing for juvenile criminals and examines juvenile sentencing practices in Malaysia. The study's findings support the idea that, to ensure that sentencing procedures are uniform, juveniles' punishments must be commensurate with the seriousness of their crimes. Sentencing guidelines should be set to ensure this. The authors point out that certain aspects of the study are not focused on, such as the presence of aggressiveness in rape crimes, which is a trait common to all rapes. They highlight the

discussion on juvenile punishment and sentencing guideline, but do not make any comparison with England or the purpose of criminal punishment in Malaysia.

In article of Juvenile Delinquency in Malaysia; Current Issues and Promising by Syah Muzaffar and Mallow (2015), the authors explained that there is no best solution to the problem of juvenile delinquency not only in Malaysia but in every country in the world. Since the issue is so complex, communities and societies trying to solve it typically need to use a number of strategies at once, especially when using legal means. Delinquent youth are a ~~problem~~ that affects societies, as was previously mentioned; as a result, the solution must often be tailored to the country or region and its culture. On a larger global scale, in addition to legislative reforms, some of the most frequent actions taken involve creating after-school activities and programs for kids. The research analyzed the current issue of juvenile delinquency and did not specifically discuss on crime of rape committed by children or the punishment.

In the research on Legal Issues in Sentencing Child Offenders in Malaysia by Al-Adib Samuri et al (2012), preliminary analysis revealed that there are some legal problems that Malaysia's juvenile criminal justicesystem needs to address. The underlying theory of sentencing orders in the Child Act 2001 (Act 611) that will be given by the Court for Children is the key issue that needs to be solved. Even though the Child Act includes a clause that puts the interests of the children first, it must also give due consideration to the notion of rehabilitation when sentencing child offenders. The Court still believes in deterrence, and they are still willing to impose a lower punishment even though the offender is only 11 years old. This study focuses on the theory of deterrence and rehabilitation in sentencing child offenders and how far the theories can do justice to both offenders and their victims, but does not include the theory of retaliation and incapacitation.

In the article entitled Rehabilitation Theory in Adjudicating Child Offenders and Its Application in Malaysia, Mohd Al-Adib et al. (2013) elaborated that the rehabilitation theory is extremely appropriate for use with juvenile offenders as well as adult criminals. The juvenile criminal justice system and children's courts all around the world have been given new life by this approach. The conceptual theory and philosophy of rehabilitation place a strong emphasis on the best interests of the child and support treatment that is tailored to the individual by putting an emphasis on aspects like behavior modification, education, and societal integration. The study highlights the rehabilitation theory only and does not analyze other theory of purpose for punishment (Retaliation, Deterrence, Rehabilitation and Incapacitation) that the researcher will discuss in this study.

In her research on Justification of Punishment for Child Offender in Malaysia, Nurliyana et al (2013), illustrates that, scholarly studies concluded that rehabilitation is a suitable philosophy to support punishment for minor offenders in Malaysia based on a comprehensive evaluation of the literature. She focuses on understanding how Malaysia's dual legal system, which combines civil and Syariah law, applies rehabilitation philosophy to justify punishing juvenile criminals. The study highlighted the discussion in civil and syariah perspective.

### **Research Methodology**

This study was conducted using the doctrinal research approach, characterized by “library-based research”. Most findings were derived from published sources such as academic journals and books. These may be varied and include newspapers, journals, and some other reliable online sources, among others.

The important aspects of the legislation and case law are critically analyzed in this research design, and then all relevant components are merged or synthesized to construct an arguably accurate and full statement of the law on the subject at hand (Watkins et al., 2017). The researchers used this research design to determine whether the current legislation governing law pertaining to child offenders is critically reviewed, as there are some argumentative issues with the *mens rea* of the minor accused whereas the advancement of the technology may constitute for an earlier maturity than suggested by the current law. Therefore, the researchers feel the need to address this topic with this research design in order to revisit the existing law.

The focus is on examining and visiting the existing legal norms, principles, provisions, and case law pertaining to rape committed by children in Malaysia and England. The primary objective of utilizing this methodology is to offer a novel framework for comprehending child rape through minor legislation. This study's information came from a range of options including law libraries, websites, academic publications, newspaper gazettes, and online legal research resources like LexisNexis, CLJ Law, West Law, Google Scholar, and Commonwealth Law Bulletin.

Data collection is divided into primary data and secondary data. Primary data was used by the researchers to get information pertaining to the topic discussed, such as journals, statutes, constitutions and decided cases, which would be obtained from the UniSZA Al-Wathiqu Billah library, Terengganu Public Library, Kelantan Public Library, and other libraries. Secondary data, on the other hand, is obtained based on the views of different authors in their work within the same topic, such as books, online textbooks, legal journals, journal articles, news, and relevant websites such as the Department of Social Welfare, AskLegal and the Malaysian Bar. Other materials used in this study were textbooks, abstracts, articles, seminar papers, case reviews, legal encyclopedias, and judge commentaries.

Interpretation, accessing, and scrutinizing this data will be part of the data analysis process. The nature of this research exercise, being purely legal research, requires the inclusion of both primary and secondary sources. The analysis of the data will involve carrying out an analytical scrutiny and review of the sources, which will provide the researcher with crucial information about the matter of rape. The researcher will give a brief overview of the historical context of rape. Then a conviction for the offence of rape will follow. Secondly, the researcher will strive to understand and interpret the present conditions of the statute for rape committed by children in Malaysia with regards to other nations in a similar scenario, with a focus on the major statutes involved and the implications for the current situation from the stand of view of the field of law in question.

The data analysis process will involve the interpretation, access, and scrutiny of the collected data. Given the nature of this inquiry as a purely legal research endeavor, the integration of primary and secondary sources is essential in conducting the research. By conducting a meticulous examination of the sources, the process of data analysis will enable the researcher to acquire valuable insights pertaining to the subject of statutory rape. To provide a comprehensive understanding of this field of law, it is imperative to acknowledge that the researcher will provide a concise summary of the historical context of rape. Subsequently, an examination of rape will be presented. In addition, the researcher will undertake the task of identifying, interpreting, and analysing the current status of rape in Malaysia and England, specifically focusing on the key legal provisions and their implications in this particular field of law. Each position will be discussed correspondingly.

This study includes a comparative analysis, which will comprise a comprehensive evaluation of pertinent facts, principles, concepts, and provisions from both jurisdictions. This study aims to conduct a comparative analysis to determine whether the existing measures in both nations are sufficient to address the issue of rape. In light of the conducted analysis, the researcher will present legislative recommendations aimed at abolishing Section 113 of the EA 1950 as a component of the conclusion.

### **Definition of Rape**

Oxford Advanced Learner Dictionary (2024), defined rape as the crime of forcing somebody to have sex with a person especially using violence. Section 375 of the Malaysian Penal Code further defines "rape" as when a man has sexual intercourse with a woman under any of the circumstances listed out including (i) without her consent, (ii) with her consent, when the consent is obtained by using his position of authority over her or because of professional relationship or other relationship of trust in relation to her; or (iii) with or without her consent, when she is under 16 years of age. Furthermore, according to such provision, a mere entry is enough to constitute sexual intercourse, which is a crucial element in the offence of rape.

In a situation where the victim was a child, the child could not be said to have consented to it due to her lack of dependent opinion. Thus, whether a child agrees or protests, her consent is not free consent because a minor cannot give valid consent. Moreover, in the case of child offender, the victim who is younger than the child offender obviously would not understand such behaviour or what have been done to them. This child does not even know how to describe the immoral act that has been inflicted on them.

According to Mueller & Ross (1980), rape is "*an act of enforced, or forceful, sexual intercourse ("carnal knowledge") of a woman, without her consent*". "Carnal knowledge" requires a penetration of the penis into the vagina, however slight, but the emission of semen is not required. Scientifically, a child who has not yet attained the age of puberty is unable to do ejaculation. However, based on the above definition, emission of semen is not required in the commission of the offence.

The Malaysian legal framework emphasizes the importance of consent, circumstances surrounding the consent, and the age of the victim. It specifies that mere entry is enough to constitute sexual intercourse for the offence of rape. On the other hand, Mueller's definition

of rape is narrower, focusing on enforced or forceful sexual intercourse without requiring the emission of semen. This definition may conflict with scientific considerations, as it acknowledges that children who have not reached puberty may not be capable of ejaculation. However, the key element in Mueller's definition is penetration and not the emission of semen.

### **Section 113 of the Evidence Act 1950**

The inclusion of men below the age of 13 in the statutory definition of rape is not explicitly omitted. The child cannot, nevertheless, be charged with rape in its entirety, due to the provisions outlined in Section 113 of the EA 1950. The Section states that, "*It shall be an irrebuttable presumption of law that a boy under the age of thirteen years is incapable of committing rape.*"

As a consequence, it is an irrebuttable presumption that children under the age of 13 years old cannot commit such offence and therefore they are immune from rape charges under the law. However, based on the fact that children at such an age are capable of carrying out the rape, this presumption can no longer be an acceptable truth.

### **Some Rape Cases Committed by Children**

There have been several reported cases where children committed the offense of rape. One of the incidents took place on 30 November 2013, where a six-year-old girl who was sent to a nanny's home in Alor Gajah by her mother, was reportedly raped by the nanny's stepson. The police assumed that the nanny's stepson, who is only 11 years old, is the youngest rapist in Malaysia at that time. It was also reported that the child told her mother that the boy had been lying on top of her and then she felt an excruciating pain in her genital area. His mother filed a police report, and the case is now being investigated under Section 376 of the Penal Code for the rape (Tamboo, 2013)

The rape case continues where in 2017, similar case occurred in Melaka. A police report was made against a Year One student (7 years old) for allegedly raping a six-year-old girl. The report was investigated under the Sexual Offences Against Children Act 2017. The victim was admitted to Hospital Melaka on the same day the police report was made, and the medical report showed that there was a tear on the hymen (Murali, 2017).

On 2 July 2019, Harian Metro online newspaper reported a 12-year-old boy was arrested by the police, after he was believed to have raped a four-year-old girl who was being looked after by his mother at their home in Batu Gajah. The District Police Chief, Assistant Commissioner Ahmad Adnan Basri said the incident is believed to have happened three times, the first time at the beginning of Ramadan, the second time on May 31 and the third time on June 17. A medical examination was carried out at the Raja Permaisuri Bainun Hospital in Ipoh and it was found that there were tear marks in various positions, causing the victim's membranes to rupture. He further added that "there is a red mark on the 'introitus' and anal area of the victim. The effect cannot be ascertained as an old or new effect because the incident has happened three times." The investigation found that the cause for the suspect's act was the influence of a video on his mobile phone. (Arop, 2019)

Traditionally, children have been thought of as innocent or incapable of sexual arousal. Yet, the physical dimension of sexual arousal is present from birth. A male baby may experience erection at the earlier age of 0 to 3 years old (Children Hospital of Philadelphia, 2024). Therefore, even though children who have not attained puberty are not able to commit ejaculation, they can do penetration through erection.

### **Age of Criminal Responsibility for Children**

Basically, the Malaysian Child Act 2001 (Act 611) defines a child as a person under the age of 18. However, the age at which the assumption of incapacity to commit rape is applied is below 13 years as laid down in the Evidence Act 1950. Meanwhile, the age for criminal responsibility is determined by the Penal Code and the Child Act 2001, which is set at 10 years. Section 82 of the Penal Code states that *"nothing is an offence which is done by a child under ten years of age"*. Section 83 of the Act further adds *"nothing is an offence which is done by a child above ten years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion"*.

According to Section 113 of the EA 1950, the criminal legislation of this nation does not consider children under the age of thirteen are capable of committing the crime of rape. In order to clarify, the minimum age of legal responsibility for the crime of rape is 13 years and older, whereas for other crimes it is normally 10 years. There are two distinct age ranges that determine the criminal responsibility of the children involved. Firstly, a child between 10 to 12 who has not attained sufficient maturity to understand the nature and consequence of the act. Secondly, a child under 13 who is said to not be able to commit the offence of rape.

What is the reason for having two distinct age categories? The presence of two distinct age groups for the assumption of incompetence gives rise to inconsistencies within the juvenile criminal justice system. This is due to the fact that not only does it contradict the evidence of children's capabilities at such a young age, but it may also lead to unfair treatment of children in that age group if they are involved in other criminal activities aside from rape. If minors between the ages of 10 and 13 commit crimes such as murder, robbery or similar offences, they will not be legally free from criminal responsibility. However, these children shall be spared from the consequences of committing rape under the requirements of Section 113 of the EA 1950.

### **The Concept of Wrongfulness**

If conduct must be wrongful in order to be justifiably criminalised, how should its wrongfulness be established? Simester (2016), in his work asserts that the proposition that any prohibition of action can be justified only when action is morally wrongful action is most easily defended by reference to the distinctive nature of criminal law, which punishes, and censures, the offender for having done wrong. The criminal law is a blaming institution, and one cannot blame a person unless that person does something morally wrong; that is, unless he does something that, all things considered, he ought not to do. Practically, morality focuses not only on how individuals should treat others but also on the broader question of what actions one should take. In this context, there is no strict differentiation made between reasons that are considered "moral" and those categorised as prudential or other types of reasons. Asserts that the proposition that any prohibition of action can be justified only



when action is morally wrongful action is most easily defended by reference to the distinctive nature of criminal law, which punishes and censures the offender for having done wrong.

The view that associate rape with feelings of violation is one of a larger views which make the wrongfulness of rape a function of the harmfulness of rape. Such views are represented daily in the media through accounts of the trauma of rape and the sense of insecurity or loss of trust which the experience of it generates. These are harmful because they change someone's life for the worse. The torturer uses pain to do a great deal of harm, often scaring his victims physically and often breaking down his victims' sense of their own humanity, often forcing them into betrayals which undermine their lives. If a child trying to hide what they did by lying, it implies that this child knows what he did is wrong, immoral and nobody should find out as reported by the Astro Awani in the above mentioned incident.

### **The Effect of Rape on Child Victim**

Rape has wide-ranging, severe repercussions on a victim's physical and mental health. It is important to understand that each person experiences these impacts differently and that recovery is a very personal journey and differs from one person to another. Survivors may experience somatic complaints, eating disorders, anxiety, difficulty focusing, and physical symptoms pertaining to the parts of their bodies that were injured during the assault. Survivors can be controlled (remote, calm), disoriented (disbelief, denial), or highly expressive (angry, sorrowful). Each survivor reacts differently to terrible experiences. Long-term or short-term trauma effects are possible following a sexual assault or rape. After experiencing sexual assault or rape, a survivor may experience further situations. A survivor could grow pessimistic and believe they are "damaged" or undeserving of a better life (Schmutzer AJ, Gorski DA & Carlson D, 2016). For the child victim, they might not understand what have been done to them and don't even know the nature of rape and its consequences. Following a sexual assault, the majority of victims feel more exposed. To reduce the chance that they will be raped again, some victims become extremely worried about adopting safety measures or making significant life changes especially for a child who have been raped by the person they trusted or the person they meet every day. In the worst scenario, this child might not tell the parents because they lack knowledge of what to do if they are raped. After being raped, victims could have a different self-perception. It is possible for individuals to experience guilt or self-blame for their attack. While interpreting the incident might be helpful, the victim's healing may suffer if they place too much responsibility on themselves (Walker J et al., 2005).

The abolition of Section 113 of EA 1950 might have an effect on victims of rape by making it possible for a more thorough investigation of the case. By considering the accused juvenile offender's age and maturity level, it could result in a more nuanced view of the dynamics involved. To ensure the rights and welfare of the accused as well as the victim, safeguards must be implemented along with this shift.

The effects of rape on child victim may be divided into two categories, namely the physical damage and mental health as follows:

*i. Physical Damage*

One important factor in these circumstances is the physical damage that victims of rape endure. Eliminating Section 113 of EA 1950 might not have an immediate effect on the harm done physically, but it might have an effect on how the perpetrator is held accountable and treated by the law. When determining the victim's bodily impact, medical data and expert testimony might still be extremely important. Depending on the type of attack, the degree of violence used, and other personal circumstances, a rape victim may suffer a wide range of physical injuries. It's critical to remember that there may be both short-term and long-term physical effects. Damage that falls under this category includes genital injuries, which include bruising, ripping, and swelling in the genital area as normal physical reactions resulting from a violent sexual assault. Internal injuries that led to vaginal and anal trauma come in second. Anus or vaginal internal damage from the aggressive penetration could result in discomfort and bleeding. Severe cases may result in reproductive organ damage, which would affect long-term reproductive health and fertility. Furthermore, the risk of acquiring sexually transmitted infections (STIs) is increased in situations when non-consensual sexual contact occurs. Rape victims should frequently get tested for STIs. Moreover, rape also causes contusions and abrasions since the physical force used in the attack may cause bruises on different body areas. Attempts by the victims to fend off the attack may result in scratches or abrasions. Furthermore, the risk of acquiring sexually transmitted infections (STIs) is increased in situations when non-consensual sexual contact occurs. Rape victims should frequently get tested for STIs. Finally, rape also causes contusions and abrasions since the physical force used in the attack may cause bruises on different body areas. Attempts by the victims to fend off the attack may result in scratches or abrasions.

*ii. Mental Health*

Rape victims' mental health is a serious and intricate issue. A more compassionate legal system may result from the repeal of Section 113 EA 1950, even though it may not directly address mental health concerns. By acknowledging the psychological damage endured by both victims and offenders, ensuring that the judicial system considers the age and mental health of juvenile offenders may result in a more compassionate response. Rape victims experience severe emotional trauma that can have long-lasting effects on their mental health. They might feel like they are not equal to the other girls their age because of what happened to them. This will impact their self-esteem and social skills. A thorough and considerate strategy is needed to meet the mental health requirements of survivors. While the long-term effects of each victim vary, emotional disturbance characterized by melancholy and heightened rage are frequently observed reactions. Additionally, there is impaired cognitive functioning manifested as an increase in suicidal thoughts and flashbacks to or obsession with the assault's memories. Psychologically, the victims described feeling as though their identity and self-worth were diminished, and they also felt as though their emotional distance from others disrupted their social relationships (Westmarland & Alderson, 2013). A victim of rape may suffer from psychological or psychiatric distress in addition to their physical suffering. This is known as the victim's psychological loss. Stress is experienced by rape victims as psychological pain.

Santrock (2006), defines stress as a person's reaction to situations and occurrences (referred to as "stressors") that pose a threat to them and lessen their capacity to handle stress in all of its manifestations. For both the victim and anyone close to her, rape is a painful experience. A victim of rape will experience pain and loss for the rest of their life. Victims of sexual assault may suffer from both psychological and bodily damages. The victim's psychological state is affected by a variety of losses, such as extreme anxiety about being alone, fear of others, nervousness, hesitancy, and occasionally paranoia; frequently being shocked; intense worry; difficulty forming relationships; loss of faith in men; fear of men; fear of sex; feeling that others dislike them; emotional aloofness; difficulty interacting with friends and the public; hatred of anything; nightmares; and others. Some victim uses words and tears to express their pain, while other women display internalised suffering. Many victims of rape have moved, changed their lifestyles, or refused to leave the house at night. Suicide rates among rape victims are approximately 25%. Someone who is under stress, psychologically the body will react to stress in order to reduce or eliminate the stress

There are various effects on the mental health of survivors, including Post-Traumatic Stress Disorder (PTSD). Many rape survivors experience nightmares, intrusive thoughts, flashbacks, and hyperarousal as PTSD symptoms. PTSD symptoms can be effectively reduced by trauma-focused therapies like Eye Movement Desensitisation and Reprocessing (EMDR) and Cognitive-Behavioural Therapy (CBT). The second is anxiety and depression as feelings of despair, anxiety, and hopelessness can all be exacerbated after rape. As a result, the survivors must go to psychotherapy. Talk therapy as well as medicine, when necessary, can help cure anxiety and sadness. Additionally, support groups can foster a sense of belonging and comprehension. Additionally, support groups can foster a sense of belonging and comprehension (Seidler & Wagner, 2006). Thirdly, even though they are not at fault, survivors frequently struggle with mistaken guilt and shame. Self-blame has an impact on how individuals react to the victim as well. People who place the blame on themselves, for instance, are thought to be less mature and more accountable for the rape than people who do not. Support groups and counselling can assist survivors in processing these feelings and realising that the offender bears all responsibility. Furthermore, a lot of survivors' experience anxiety and hypervigilance due to a continuous worry of becoming victims again. As a result, therapies that emphasis coping mechanism development, anxiety management, and the progressive restoration of a sense of safety may be beneficial (Sukendar, 2017).

In addition, the victim may also struggle with trust issues and interpersonal problems. Survivors may find it difficult to trust people, which makes it difficult to establish or maintain relationships. Rebuilding trust and navigating healthy relationships can be facilitated for survivors by relationship counselling, communication skills training, and the support of intimate relationships. Self-esteem and body image problems may be among the challenges, since rape can exacerbate problems with negative self-perception and body image. Suicidal Thoughts and Self-Harm come last (Sukendar, 2017). As maladaptive coping strategies, some survivors may consider suicide or self-harm; hence, immediate crisis assistance and continued mental health treatment are essential. Therapists can assist survivors in strengthening their resilience and creating healthier coping mechanisms.

A child that has been raped may suffer a long-term mental health as they grow up. They will grow up blaming themselves for not knowing how to react at such an age. Thus, treating

rape victims' mental health calls for a customised, survivor-centered strategy. Crucial elements of the healing process include access to resources and therapies that are customised to the individual's needs, a robust social support network, and professional mental health help. It is critical to treat survivors with compassion, decency, and knowledge of the long-term effects of trauma on mental health.

Upon examining the definition of rape and current stipulations outlined in Section 113 of the EA 1950 within the legal framework, it becomes apparent that there are several facets of the law that need careful consideration in relation to the criminal culpability of minors. Since the definition of rape does not required ejaculation, the application section 113 Evidence Act 1950 should be considered in its application.

### **The Presumption of Doli Incapax**

Children under the age of 10 are deemed to be incapable of committing a crime in England. Such children are classified as doli incapax and are completely exempted from criminal liability. This legal presumption is considered irrebuttable, meaning that even if a child in this age group possesses the necessary mental state (*mens rea*) or commits the physical act (*actus reus*) required for a crime, it will not be taken into account.

Historically, the age at which individuals could be held criminally responsible in England has undergone several changes. Initially, common law set the age at seven, based on the belief that children this young are unable to differentiate between right and wrong, and therefore lack the capacity to form the intent necessary to commit a crime. As a result, a child was fully immune from criminal liability until the day before their seventh birthday.

The age of seven years was raised to eight years under Section 50 of the Children and Young Persons Act 1933. Subsequently, the Children and Young Persons Act 1963 included additional amendments to the age requirement by raising it to 10 years in section 16(1) of the Act. As mentioned in the following, this clause states that "*It shall be conclusively presumed that no child under the age of ten years can be guilty of any offence.*"

Nevertheless, there are also counter arguments opposing the establishment of ten years old as the designated age of criminal liability in England. As an illustration, a white paper published by the Labour Party proposed increasing the age to sixteen years, aligning it with the highest compulsory school age. This age is considered significant as it enables individuals to attain independence, pursue self-employment, and even enter into marriage. (International Labour Organisation, 2024)

The Children and Young Persons Act 1969 afterwards proposed raising the age of criminal responsibility to 14 years. The rationale behind this is that as children grow older, they are granted the opportunity to develop a greater sense of responsibility towardstheir parents, their surroundings, and their community as a whole, in contrast to children who are only 10 years old. Nevertheless, such reasons were rejected, and the British government opted for the age of 10 as the age for criminal responsibility.

Therefore, the age of responsibility in England and most states in the United Kingdom is 10 years old as stated in the Children and Young Persons Act 1963. Furthermore, the age range

of minors aged 10 to 14, previously classified as *doli incapax*, has been eliminated by the Crime and Disorder Act 1998 (Section 34). Common law now acknowledges only two age categories for criminal responsibility, namely children under the age of 10, and children aged 10 and above.

Consequently, children become criminally responsible immediately upon reaching the age of 10. In England, children who are 10 years old and older can be held entirely accountable for their crimes. However, if they are still under the age of 18, they receive a different sentence compared to the adult offenders. These adolescents can be found criminally responsible as the legal presumption of their incapacity to conduct a crime has been abolished in England.

### **Abolishment on the *Doli Incapax* in England**

The presumption of *doli incapax* referring to “incapable of committing an evil act” as according to Arthur (2010) emphasises that children who are older than the age of criminal responsibility even though may still lack the ability to comprehend the moral wrongness of their actions due to differences in their level of maturity (Crofts, 2009). Before its abolition in England, the presumption of *doli incapax* demands that the burden of proof, which lies with the prosecution, establishes that a child defendant, who is above the age of criminal responsibility but under 14 years old, possessed an understanding of the distinction between right and wrong at the time of the offence. To establish the presumption, the prosecution has to demonstrate that the accused was aware that the act was obviously wrong, rather than just being merely naughty or mischievous (Urbas, 2000). The prosecution may present evidence indicating the child's awareness, such as the surrounding circumstances or the child's statements or actions prior to or during the incident. Additional evidence can be obtained by the process of questioning the child, conducting a psychiatric assessment, or soliciting testimony from someone who has a deep understanding of the child such as a teacher. Evidence of the child's life circumstances, formal education, and particularly their home backgrounds are crucial in determining the child's level of understanding, as is evidence of prior convictions.

*Doli incapax*, a legal concept in English law, was initially implemented to protect children between the ages of 14 and the age of criminal responsibility from facing the full consequences of the law. This concept recognised that children at this age were not capable of fully understanding the severity of their actions and were unlikely to comprehend the complexity of the criminal justice system, which primarily focuses on convicting and punishing adults.

The presumption of *doli incapax* was eliminated in England in 1998 through Section 34 of the Crime and Disorder Act 1998 as a response to increasing criticism. Subsequently, any child above the age of 10 who engages in a criminal offence in this jurisdiction is subject to the whole and strict application of criminal law. The abolition of *doli incapax* occurred subsequent to the suggested set of measures with the objective of sending a clear message that children would be responsible for their own acts. As part of its reform plan, the government suggested eliminating the presumption of *doli incapax* due to its intrinsic illogicality, injustice in practice, and outdated character. The report argued that *doli incapax* was contrary to common sense and its implementation did not serve the interests of justice, victims, or the young individuals themselves. It suggests that the sentencing stage of the

criminal justice process is deemed more capable of considering a child's age and maturity compared to a presumption that could hinder prosecution and conviction (Bandalli,1998.).

Legal scholars have strongly condemned the decision to withdraw the presumption of *doli incapax*. This criticism has been expressed by several individuals, including Arthur (2010). In a brief, it captures the essence of these critiques by asserting that according to English law, a person is deemed entirely irresponsible until the day before their tenth birthday, and then suddenly becomes fully responsible once their birthday celebration has been cleared away the next day. The UN Committee on the Rights of the Child has expressed concern about the abolition of *doli incapax*. In a 2002 report, they recommended that the British government significantly increase the age of criminal responsibility to mitigate the potential negative effects of this reform.

The government justified their decision to abolish *doli incapax* by citing refined formal education systems, which led to younger children being seen as more capable of discerning between right and wrong (Home Office, 1997). This rationale has previously received assurance from the judiciary of the English High Court. In 1994, Mr. Justice Laws argued that the presumption that children are not capable of understanding the law is a significant disadvantage to our legal system. This presumption may have been valid in the past when there was no mandatory education and children matured at a slower pace. However, today, where education is compulsory and children develop more rapidly, this presumption is detrimental to our legal system (Arthur, 2010).

The criticism of assumption of *doli incapax* has been eliminated in the case of sexual offense in England through Section 1 of the Sexual Offences Act 1993, which states the following:

*The legal assumption that a male individual below the age of fourteen lacks the capacity to engage in sexual intercourse, regardless of whether it is consensual or non-consensual, is therefore eliminated.*

By effectively revoking this presumption in criminal law, children under the age of 14 will no longer receive specific safeguards in cases of sexual offences, regardless of whether they involve consensual or non-consensual acts. Moreover, children are held equally accountable for sexual offences as they are for other criminal acts. Consequently, once individuals attain the age of criminal responsibility, which is 10 years, they can be legally prosecuted for rape or other sexual offences. Following the abandonment of this premise, English legislation has periodically enhanced the rules concerning sexual offences in order to ensure the efficacy of the law. Regarding sexual crimes perpetrated by minors, the Sexual Offences Act 2003 includes a particular clause that addresses such offences committed by individuals under the age of 18.

Although the connection between the perceived rise in maturity among children and education was not explicitly established, practitioners who advocated for the elimination of *doli incapax* frequently expressed the belief that children are developing at a younger age and consequently do not necessitate the same degree of legal protection concerns.

Legal practitioners have expressed additional support for the presumption and raised a significant concern that abolishing doli incapax would lead to an increase in the number of children who are included in the English criminal justice system (Fitz-Gibbon, 2016). As one legal counsel inquired:

*What actions are we already undertaking? Why are we pursuing legal action against them if they are unaware of the magnitude of their actions? I have a preference for using doli incapax as a clear distinction... Otherwise, you are subjecting individuals at ten, eleven, and twelve years old to the same assessment as those who are 41, 42, or 43 years old. I am experiencing significant discomfort with the situation... I fail to comprehend the rationale for prosecuting individuals who are unaware of the seriousness of their actions. I believe it is necessary to address the issue at hand, since I perceive that we are excessively imposing criminal charges on minors. (Counsel A)*

The abolition of the doli incapax presumption results in the inclusion of more children in the criminal justice system, disregarding the increasing amount of evidence that acknowledges the importance of non-punitive approaches for child offenders. These approaches entail active involvement with both family members and schools and encompass the implementation of preventive measures and early intervention programmes for juvenile offenders.

### **The Relationship Between Section 113 of Evidence Act 1950 and the Ability to Penetrate**

Cambridge Dictionary (2024) defined “presumption” as the act of believing something is true without having any proof. In other words, presumption is an idea that is taken to be true on the basis of probability. This means that a presumption is not certain or definite. Thus, a presumption should cease to operate as soon as the fact contrary to the presumption can be proof. Since the emission of semen is not required in the commission of rape offence, it should be taken into consideration that if a child is able to penetrate his penis into a girl’s vagina, he is said to be able to commit the offence of rape and the presumption under section 113 of EA 1950 can be rebutted since there is probability that the boy can commit the act.

Legal definition of the capacity to comprehend and be held accountable for illegal activities may be connected to Section 113 of EA 1950, which is tied to the age of 13. Age-appropriate legal frameworks are necessary, as evidenced by the evaluation of this age in light of penetration capabilities. To reconcile accountability with acknowledging the vulnerabilities of juvenile offenders, this entails taking into consideration the growing understanding of child growth, maturity, and responsibility. Section 113 deals with child ability. In the context of child offenders involved in rape cases, Section 113 becomes relevant in the proceedings for several reasons which firstly is protection of child. In rape cases involving child offenders, the court may apply this section to ensure that the examination of child victims is conducted with utmost care and sensitivity, minimizing trauma during the legal process.

Secondly, through testimony facilitation, the rule that permits leading inquiries makes it easier for young witnesses to testify. This is especially important in cases of child rape, where it can be difficult to get precise and in-depth information. The court may direct the

questioning in a way that promotes the child's capacity for self-expression under Section 113 of EA. Thirdly, such provision contributes to the more general concepts of justice and fairness in ensuring fairness and justice. It is crucial to strike a balance between the accused's rights and the safety and welfare of the minor victim in situations involving juvenile offenders. By allowing for an efficient assessment and protecting the child's interests, the section aids in striking this balance.

Furthermore, is admissibility of evidence, wherein the evidence gleaned from Section 113 examination may be indispensable to establishing the case's facts. In cases of rape involving juvenile offenders, the court depends on the child victim's testimony to establish the elements of the offence, and Section 113 of EA helps to guarantee the admissibility of this evidence. Admissible evidence is evidence that can be placed before the trial of fact, which is the judge or jury, for them to take into consideration when rendering a decision. The principles governing the admissibility of specific items of evidence are relevant.

In summary, rape is painful and humiliating no matter what the circumstances. It is an unwelcome intrusion of the most personal kind by definition. Most women who have experienced sexual assault are adamantly reluctant to discuss the incident. There is societal stigma and marginalisation for rape victims in many cultures, while in others they are held accountable for what happened to them. Those who have experienced sexual assault are often shunned by their peers and serve as a reminder of the darker side of society, even in more "liberal" societies. Thus, it should come as no surprise that few people are eager to discuss being sexually assaulted in public. Additionally, survivors find it difficult to discuss torture. Individuals frequently characterise their experiences as "unspeakable," and they hardly ever want friends or relatives to know what has occurred to them. It becomes an experience that the victim believes is better left unspoken, even in private, because of the shame, the helplessness to stop the pain, and the incapacity to aid others.

### **Alternative Legal Actions Available for Rape Committed by Child Offender Under the Age of 13**

Alternative legal proceedings for rapes committed by juvenile offenders under the age of 13 ought to be established concurrently with the repeal of Section 113 of the EA 1950. Instead of using punitive measures, this can entail counselling, specialised juvenile judicial procedures, and rehabilitative initiatives. A just and efficient judicial system must guarantee that the legal reaction is adapted to the offender's age and developmental stage. Striking a balance between upholding the rights of victims, holding perpetrators accountable, and acknowledging the particular circumstances surrounding juvenile offenders in rape cases is crucial in all of these concerns. A thorough and sophisticated approach that takes into account the mental and physical health of all people concerned should be given top priority in legal reforms.

When it comes to cases involving juvenile offenders under the age of 13, rape demands a complex balancing act between responsibility, rehabilitation, and the best interests. Activities directed at the parents should also emphasise their importance and role in the child's life. Creating a juvenile justice system involvement is one of the potential steps that needs to be considered. In Malaysia, the juvenile justice system falls under the jurisdiction of the Court for Children, which is part of the overall legal framework for criminal justice.



The Court is responsible for handling cases involving individuals under the age of 18 who are accused of committing offenses. The authority overseeing juvenile justice matters includes the police, public prosecutors, and the judiciary. The Malaysian legal system acknowledges the unique status of juveniles and seeks to rehabilitate rather than punish them. The Court focuses on providing guidance, counselling, and education to juvenile offenders to help them reintegrate into society. Royal Malaysia Police also can establish a special unit for the investigation of crimes by children.

Internationally, various countries have established juvenile justice systems to address offenses committed by individuals below the age of majority. The approach and structure of these systems may vary, but the overarching goal is often to rehabilitate rather than punish juvenile offenders. For example, in the United States, each state has its own juvenile justice system, with specialized juvenile courts handling cases involving minors. The emphasis is typically on rehabilitation, education, and support services, recognizing the developmental differences between juveniles and adults. In Malaysia and other countries, the establishment of a separate juvenile justice system reflects a recognition of the distinct needs and circumstances of young offenders. The aim is to provide interventions that facilitate their rehabilitation and reintegration into society while taking into account their age and developmental stage. Children under the age of 13 are not regarded to be legally accountable in many jurisdictions. They might instead be directed to the juvenile judicial system or child protective services. Since younger children may be rehabilitated, the focus is on rehabilitation rather than punitive methods, taking into account developmental variations.

The second step is assessment and intervention, when a thorough social and psychological evaluation should be carried out to identify the elements influencing the child's behaviour. Counselling, therapy, and other forms of support are examples of individualised intervention strategies that target the underlying problems. Child Protective Services Involvement comes in third. In Malaysia, the Ministry of Health may be involved in child counselling and treatment, especially through mental health services, in conjunction with other agencies. Children who need therapeutic treatment for emotional or psychological issues can see child psychologists or counsellors in government hospitals and health centers.

Child protective services may be called in to evaluate living circumstances and guarantee the child's safety when there are worries about the child's wellbeing at home. One of the main government organisations in charge of social welfare and development in Malaysia is the Department of Social Welfare locally known as Jabatan Kebajikan Masyarakat in Bahasa Malaysia. It frequently has supervisory authority over child protective services, which offer assistance and intervention to children who are in danger or require protection. In order to provide counselling and therapeutic services, the DSW may work in partnership with other agencies and organisations. Second, in situations when legal interventions are required, the Family Court and Child Court may become engaged. To protect children's wellbeing, these courts might collaborate with social welfare organisations and suggest counselling or therapy as a part of the judicial procedure.

The last category is Education and Prevention Programmes, which involve implementing age-appropriate educational and preventative initiatives in communities and schools to

increase knowledge of healthy relationships, consent, and proper behaviour. Parental guidance and education initiatives in Malaysia are supported in part by the Ministry of Education (MOE), particularly through school-based initiatives. Collaborating with schools, educational programmes that support good parenting techniques and awareness of child development can be put into place. Aspect pertaining to family and community development are supervised by the Ministry of Women, Family, and Community Development. It might be involved in creating laws and efforts, such as parental guidance and educational campaigns, that support positive family relations. In order to provide a comprehensive support system for children and families, coordination and collaboration amongst various institutions are crucial. In order to guarantee the wellbeing of children in Malaysia, a variety of needs, including as counselling and treatment, child protection, and parental supervision, are to be met. In Malaysia, a number of authorities are involved in parental guidance and education initiatives, child protective services engagement, and child counselling and therapy.

Additionally, since parents are largely responsible for raising their children, there should also be an action taken towards them that imposes parental responsibility and accountability. As such, parents should be held somewhat liable for the conduct of their children. Depending on the situation, legal repercussions for parental carelessness or participation in the crime may be taken into consideration. Also, by developing Parental Guidance and Education, it can give parents direction and instruction on how to be responsible parents, supervise their children, and deal with behavioural issues. It can also offer parents resources and support to help them overcome obstacles and foster a happy home environment. In order to evaluate the family's overall well-being, the legal system and child welfare services must work together. This is known as Collaboration with Child Welfare Services. To address any concerns found to be influencing the child's behaviour, parenting classes, counselling, or support services can be made available.

To support children's growth and well-being, parental education and guidance in Malaysia frequently entail cooperation with a range of partners, including child welfare services. NGOs and government organisations like the Department of Social Welfare may work together to carry out family assistance initiatives. The purpose of these programmes is to give parents advice on how to communicate, parent effectively, and resolve conflicts. Parent education workshops and seminars can be held to teach parents about loving environments, effective punishment techniques, and child development. To create community-based projects, child welfare services may collaborate with local community centres and non-governmental organisations. Parenting classes, support groups, and outreach programmes aimed at including parents and carers are a few examples of these projects. Services for child welfare may offer knowledge about child welfare and safety. Child welfare services may create parent helplines and online tools in collaboration with pertinent authorities. These platforms might offer guidance on how to raise children, parenting techniques, and where to find resources for expert assistance. Cooperation guarantees that these resources are useful and easily accessible.

A complete plan is ensured by a multidisciplinary approach comprising educators, psychologists, social workers, and healthcare specialists. A comprehensive understanding of family dynamics and the customisation of interventions to meet particular needs are made

possible by interdisciplinary collaboration. Additionally beneficial to the parents are community service or restitution. As a way to give back to the community and show that they are serious about dealing with the fallout from their child's behaviour, parents could be asked to perform community service or make amends. In order to ensure that the parents actively participate in any relevant programmes and fulfil their duties towards the child's rehabilitation, it is necessary to implement monitoring mechanisms with an ongoing focus on support. Finally, family therapy can be helpful in addressing underlying family dynamics, enhancing communication, and fortifying the bond between parents and children.

In conclusion, maintaining a child-centric and rehabilitative attitude is essential in all actions. The objective is to uphold the child's welfare, deal with the underlying reasons of the behaviour, and offer the family and child the help they require. In order to give juvenile offender the chance to grow from their experiences and successfully reintegrate into society, it is imperative to strike a balance between accountability and rehabilitation. Rape has historically avoided being classified as torture because it was either thought to be too minor to meet the requirements for "pain and suffering" or it was committed by a non-state actor, such as a state official acting in his personal capacity, and was motivated only by lust, in which case the government could not be held accountable. The act itself is now recognised by international and regional courts, as well as the various human rights and humanitarian treaty bodies, as being serious enough to meet the necessary threshold for pain and suffering. Additionally, case law suggests that a State will still be held accountable for the actions of "rogue" officials.

### **The Implications of Repealing the Provision on the Child Offender, Society and Victim**

If section 113 of the Evidence Act is abolished, what would be the implications on the victim, society, and child offenders? Firstly, the child offender would be affected by the repeal or revision of provisions pertaining to child offenders, which would indicate a move towards a more rehabilitative approach. Instead of emphasizing punitive measures, the focus is on resolving the underlying conditions that contribute to criminal behaviour. Thus, by offering assistance, guidance, and intervention that is specific to the requirements of the juvenile offender, a rehabilitative approach seeks to deter future criminal behaviour.

Furthermore, the influence on society is that Community Safety exists as rehabilitating people lessens their chance of reoffending, therefore society must strike a balance between their safety and that understanding. Modifications to legislation pertaining to juvenile offenders may have an impact on the public's opinion of the justice system. Education and public awareness efforts play a critical role in influencing opinions. Moreover, justice and closure are two more good effects on the victim that come from repealing or changing provisions. Providing victims with access to counselling, support services, and legal procedure information becomes critical. Consequently, it is included Taking interests into account by maintaining a balance between the victim's rights and the offender's need for rehabilitation is essential. Engaging in judicial proceedings and advocating for victims are crucial factors.

### **Conclusion**

Since children today are not as innocent as we formerly thought, Malaysia ought to follow the United Kingdom's practice and abolish Section 113 of the Evidence Act 1950. A growing

awareness of child growth, maturity, and accountability is reflected in the article changing perspectives on children through evolution of awareness and acknowledging that children may not be as innocent as traditionally perceived. Consequently, a thoughtful assessment of children's capacities and duties becomes the basis for the decision to do away with some legal requirements. Abolishing Section 113 will have a significant impact on guaranteeing fairness in court procedures, which is a commitment to that end. It acknowledges that minors might have comprehension levels that call for a more customised approach to their engagement in legal affairs. To defend the legal rights of both victims and minor offenders, for example, it will safeguard those rights and ensure that the judicial system operates justly and in accordance with modern knowledge.

Analysing the cultural and legal context will show how relevant it is for Malaysia. Taking Malaysia's legal and cultural background into account is necessary to discuss the applicability of this method to the nation. Examining current legislation, cultural norms, and the efficacy of substitute legal strategies are all necessary. Assessment of how other nations such as the United Kingdom have modified their legal systems can provide insight into Malaysian debates. Assessing the efficacy of these modifications and their possible advantages for the legal system in Malaysia is part of it. Though there are a number of implementation challenges, such as the need for age-appropriate legal frameworks that take children's talents and vulnerabilities into account. Secondly, it is essential for the public to comprehend and accept legislative reforms that misconceptions are addressed and that the rationale behind them is made known. Finally, by maintaining accountability while balancing rehabilitation although children can be responsible, it is important to strike a balance between their capacity for responsibility and the legal system's requirement for accountability. Additionally, promoting rehabilitation means that young offenders will receive the help and rehabilitation that they need.

In the area of juvenile justice, this research makes a substantial theoretical and contextual contribution, especially with regard to the treatment of juvenile offenders. The study highlights the need for legislative reforms that take into account the changing understanding of child growth and maturity in the context of contemporary societal influences by critically reviewing the existing laws and case law regarding juvenile offenders, particularly in situations of sexual crimes. The results show how current legal frameworks, and the realities faced by young offenders are out of sync, and they call for a change from punitive to rehabilitative strategies that put minors' developmental needs first. In this context, the research adds to the ongoing discussions regarding juvenile justice policy in Malaysia and elsewhere by providing information that may influence future legislative changes and court procedures. The research is a vital resource for policymakers, legal practitioners, and researchers attempting to negotiate the complexity of justice in an increasingly digital age by highlighting a balanced response that protects victims while acknowledging the specific circumstances of juvenile offenders.

In the end, this research attempts to impact real-world changes that are necessary for a fair and just legal system in addition to contributing to the theoretical discussion on juvenile justice. By emphasising the value of a comprehensive strategy that incorporates accountability, rehabilitation, and the child's best interests, it theoretically broadens the conversation on juvenile justice. Rather than supporting a system that ignores the special

developmental needs of juveniles, this viewpoint criticises established punitive methods. Within the framework of Malaysia's juvenile justice system, the study provides a nuanced analysis, highlighting the functions of multiple agencies such as the Court for Children, the Royal Malaysia Police, the Department of Social Welfare, and the Ministry of Education in tackling the complex issues related to juvenile offenders. The research is in line with current trends in juvenile justice, which place a premium on community involvement and comprehensive assistance, by suggesting particular tactics such as increased family involvement, customised treatments, and educational programs. The aforementioned contribution holds great significance as it contributes to policy discussions and possible reforms in the Malaysian context. Additionally, it acts as a template for other jurisdictions facing comparable problems, thereby promoting a more comprehensive comprehension of successful juvenile justice procedures worldwide. Ultimately, this research aims to inspire a transformative approach that enhances the protection and rehabilitation of young offenders while ensuring community safety and wellbeing.

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