Fighting Domestic Violence - Malaysia

1. Legal provisions

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# 1.1 What are the relevant statutes and codes?

The relevant legislation on domestic violence in Malaysia includes the following:

[Domestic Violence Act 1994](http://www.agc.gov.my/agcportal/uploads/files/Act%20521%20-%20kelulusan%20TP.pdf)

[Penal Code](http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Penal%20Code%20ACT%20574%20-%20TP%20LULUS%2021_2_2018.pdf)

[Sexual Offences Against Children Act 2017](http://www.federalgazette.agc.gov.my/outputaktap/aktaBI_20170707_WJW008739BI.pdf)

[Child Act 2001](http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20611%20-%2027%202%202018.pdf)

[Married Women Act 1957](http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20450.pdf)

# 1.2 What is the controlling case law?

There is no specific controlling case law for domestic violence in Malaysia. The appellate cases on domestic violence include the following:

***Mangaleswary a/p Ponnampalam v Giritharan a/l E Rajaratnam***

This is a court of appeal decision that clarifies that the court has discretion to set aside an interim protection order issued pursuant to the Domestic Violence Act 1994, notwithstanding that the police investigation has not been completed and criminal proceedings have not been instituted.[1]

***Mohamed Habibullah bin Mahmood v Faridah bte Dato Talib***

 This is a Supreme Court (now known as the Federal Court of Malaysia) decision that clarifies that civil allegations of assault and battery that occurred during marriage between a Muslim couple is a matter for Islamic family law and falls within the exclusive jurisdiction of the Syariah court.[2]

# 1.3 What are the specific parts of the court system that address domestic violence?

There are no specific parts of the court system in Malaysia that address domestic violence. Generally, an action may be commenced in a magistrates' court, a session court or a high court, depending on the subject matter and the amount of claims.

# 1.4 What are potential causes of action?

The potential causes of action include tortious actions such as battery and assault. In fact, it is expressly recognized under the Married Women Act 1957 that a husband or a wife is entitled to sue each other in tort for damages in respect of injuries to his/her person and for the protection or security of his/her property.

Apart from civil actions, there are various offenses under the Penal Code that are relevant for domestic violence, which include the following:

causing hurt[3]

causing hurt in order to have sexual intercourse with wife[4]

using criminal force and/or committing assault[5]

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