

Love, Law, and Litigation: Legal Perspectives on Breach of Promise to Marry in Malaysia

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ABSTRACT

Claims for breach of promise to marry remain actionable in Malaysia, unlike in many other jurisdictions where such claims have been abolished. One reason for the removal of these claims is the perception that they often stem from motives of financial gain. However, in several Asian countries, these claims continue to be recognised. By employing a doctrinal methodology that examines statutory provisions, case reports, and scholarly writings, this article aims to explore the foundations of breach of promise claims in Malaysia and the process of awarding compensatory damages from social, cultural, and religious perspectives. It also investigates the extent to which compensatory damages are granted in breach of promise cases, particularly in relation to the empowerment of women's rights in Malaysia

Keywords— Breach of Promise; Compensatory Damages; Women's Rights; Malaysian Law; Culture and Religion.

INTRODUCTION

Every marriage begins with a promise to marry, also known as betrothal. Entering a relationship typically involves a commitment from both parties to marry at some point in the future. This promise signifies that both individuals are dedicated to supporting each other as husband and wife, indicating that marriage is anticipated to occur sooner or later (Gan, 2014). Thus, the promise to marry is a crucial element, providing assurance of a future union.

However, there are instances where individuals make insincere promises with no intention of fulfilling them, or they may renege on their word altogether. In interpersonal relationships, people often make, and break promises (Peetz & Kammrath, 2011). When this occurs, it is often the woman who experiences the deepest emotional pain, heartbreak, and despair, as she tends to invest more in the relationship's success. Every loving couple understands that occasional broken promises may occur, provided they do not jeopardise the foundation of the relationship (Gunther, 2017). Nevertheless, maintaining fidelity is crucial, as it reflects a commitment to one's partner.

Historically, two primary grounds existed for pursuing a breach of promise to marry under Common Law. First, women's financial security was largely dependent on marriage, so breaking a serious promise would not only cause emotional turmoil but also have significant economic consequences. Second, women were expected to remain chaste until marriage, and a man's promise often implied that the woman would protect her virginity while awaiting its fulfilment (Lettmair, 2010). Thus, it was necessary to safeguard women from being exploited by men who might breach their marriage promises without just cause. The ramifications of romantic relationships extend far beyond the individuals involved (Rokach & Chan, 2023). Before entering into an exclusive relationship like marriage, it is essential to consider compatibility for those seeking to establish a long-term commitment (Haseli et al., 2019).

This article aims to explore the legal foundations and implications of promises to marry in Malaysia, particularly regarding how compensatory damages are awarded. It will assess the extent to which courts grant compensatory damages in breach of promise cases, focusing on women's rights and dignity from social, cultural, and religious perspectives.

LITERATURE REVIEW

Position in England

In England, the Law Reform (Miscellaneous Provisions) Act 1970 has eliminated breach of promise to marry as a legal claim. The Law Reform Commission cited two main reasons for this change: first, that such claims could lead to opportunistic "gold-digging" lawsuits, and second, that the stability of marriages is crucial for society; allowing this cause of action might pressure couples into marrying out of fear of legal repercussions, which could negatively affect the marriage itself. Couples should feel free to end engagements without hesitation (Majid, 1991). However, some argue that breach of promise should still be a viable legal claim. They contend that allowing one party to walk away from their commitment could foster irresponsibility and cause significant hardship for the wronged party, who might have been misled, jeopardised future marriage prospects, incurred expenses, or experienced humiliation and emotional anguish (Majid, 1991).

Position in Malaysia

A promise to marry, also known as betrothal, is an agreement between two parties (a man and a woman) to marry in the future. In cases of breach of betrothal, the key question is whether legal action can be taken against the party at fault. In Malaysia, there are no specific laws governing betrothal; instead, the principles of contract law and English common law apply when a promise to marry is made. While contract principles are relevant, a promise to marry does not need to be documented in writing; evidence of consideration is sufficient to establish the promise (Abdullah, 2002).

To pursue legal action for a breach of promise to marry, four key elements must be considered. The first is whether a valid agreement or contract to marry exists between the parties. If such an agreement exists, the second element to evaluate is whether there has been a breach of that agreement. Once a breach is confirmed, the next consideration is whether the defaulting party has any defences available. Finally, if no defences exist, the last element to examine is what remedies are available for the aggrieved party (Wright, 1924).

METHODOLOGY

This study employs a doctrinal analysis of both primary and secondary sources related to breaches of promise to marry. It takes a critical approach to the relevant legislation (Gawas, 2017), aiming to examine, refine, and enhance the legal concepts, theories, principles, and applications involved. Essentially, the research uses a focused legal analysis method that highlights specific legal problems and issues (Hutchinson & Duncan, 2012). Legal research here relies on primary data, such as legislation and court cases from Malaysia and the UK. This study specifically utilises court cases to investigate the law on breaches of promise to marry, particularly in relation to the protection and promotion of women's rights.

FINDINGS & DISCUSSIONS

Legal Rights of the Aggrieved Party

In cases of breach of promise to marry, the aggrieved party has specific legal rights against the individual who fails to uphold the promise. A woman whose fiancé has ended their engagement can sue him for damages through an *assumpsit* claim, which includes actual expenses incurred in reliance on the marriage (Brinig, 1990). The aggrieved party is entitled to seek compensation for damages resulting from the breach, such as costs associated with wedding preparations, including house renovations intended for future living arrangements, catering, photography, and videography (Hairom, 2024). These damages are categorised as special damages and can be quantified in monetary terms.

Additionally, the aggrieved party can initiate a civil lawsuit against the party who broke the promise, claiming monetary compensation for the consequences of the breach. This relates to general damages, which address the violation of rights and encompass non-pecuniary losses, such as emotional distress or loss of companionship. General damages do not require specific pleading and may include physical or emotional pain, disfigurement, and damage to reputation. These types of losses are often harder to quantify. In determining damages, judges can consider not only the financial loss incurred by the plaintiff but also their emotional suffering and wounded pride (Cousens, 1932).

Furthermore, the aggrieved party has the right to recover any gifts or expenses incurred in anticipation of the marriage. They can request the return of these items or reimbursement for costs associated with gifts, such as engagement rings, which are typically exchanged before or during the engagement celebration. Only the party at fault is obligated to return the gifts and rings to the aggrieved party (Mercer, 1971).

Religious and Socio-cultural Perspectives

Promises in a marriage are made as a reflection of both partners' love and commitment to each other and these promises to marry are often accompanied by social, cultural and religious rituals. Such promises are made with the intention that there will be a union between two individuals and this bond that will extend to families and communities. Hence, it is crucial to comprehend the significance of cases within the society as it may be devastating for someone who has been promised marriage to be denied the hope of such marriage.

Several cases have addressed breach of promise to marry within the context of social, cultural, and religious practices, leading aggrieved parties to pursue legal action against those who fail to uphold their commitments. One notable case is *Tan Kai Tze v Benjamin Kua Hock Lim* (KCH-53-4-2011), where the plaintiff sought damages for breach of promise, loss of honour, reputation, and humiliation after the defendant, a college student, broke off their engagement despite promising to marry her. The plaintiff provided evidence that she had initially refused to engage in sexual relations, but the defendant persuaded her by assuring her of his commitment. The court awarded the plaintiff RM30,000 for the breach of promise, considering her age (19) and her status as a student. Additionally, it awarded RM6,000 for loss of honour and humiliation due to the brief duration of their relationship. The case illustrates that, despite the plaintiff losing her virginity, her future marriage prospects were not deemed negatively affected, and the court adopted a broader interpretation that extended beyond the concept of virginity.

The case of *R.S. Thanalachimi v Sundararaju A/L Mattaya* (2010) MLJU 1339 explores the implications of cultural and religious beliefs in a breach of promise to marry scenario. The plaintiff, a Singaporean working in London, and the defendant, a Malaysian in California, were introduced by their parents and became engaged after the defendant proposed during visits. Trusting his promise, the plaintiff gave up her job and home to prepare for their wedding in Singapore, including a traditional Hindu ceremony that was not legally recognised. Following their honeymoon in Bali, the relationship soured, culminating in the defendant asking the plaintiff to leave after a heated argument. The court ruled in favour of the plaintiff, acknowledging her sacrifices and the emotional distress caused by the defendant's breach of promise. She described long-term effects, including social ostracism and the inability to remarry within her community. The plaintiff sought compensation for her wedding expenses and emotional suffering, and the court awarded RM150,000 in general damages for her distress and loss of community standing, along with RM21,936.30 for proven wedding expenses. However, claims for lost income were denied due to lack of sufficient evidence.

The case of *R.S. Thanalachimi v Sundararaju A/L Mattaya* underscores the importance of religious beliefs, cultural customs, and traditional rites in the context of broken marriage promises. These traditions shape societal practices and are recognised by the courts as significant. Research by Aman et al. (2019) and Jafari et al. (2015) supports the idea that religious commitment enhances marital satisfaction. Traditional culture and religion underpin moral beliefs, fostering faithfulness and commitment in relationships. These elements not only connect individuals to their heritage but also promote social unity. The court's consideration of these factors played a crucial role in determining the awarded damages, highlighting their significance in marriage commitments.

In the case of *Nagamah A/P Subramaniam v Ponnusamy A/L Rajoo* [2008] 6 MLJ 152, the court upheld the plaintiff's claim, finding that she had proven her case on the balance of probabilities. The defendant had misled the plaintiff with promises of marriage, leading her to engage in sexual relations with him, believing in his commitment. His subsequent abandonment of her, after she requested marriage, demonstrated a breach of this promise, resulting in the plaintiff experiencing significant emotional distress, loss of honour, and humiliation. The court awarded RM50,000 for the breach of promise, RM20,000 for loss of honour and mental anguish, and RM2,000 for assault.

Despite evolving societal views on virginity, the court acknowledged that the expectation surrounding it still affects women profoundly. It emphasised that women should not be held accountable for societal expectations, highlighting the serious implications of betrayal through false promises of marriage. According to Kaintura et al. (2022), such deceit should be treated seriously, as marriage represents a crucial emotional bond. The court's ruling reflects the view that a promise to marry is a solemn commitment that should not be made lightly or dishonestly, given the deep societal and religious significance attached to virginity, which can lead to considerable shame and humiliation for women.

In the case of *Mattackel Shibu Alexander v Balbir Kaur Gurdial Singh* [2022] CLJU 1467, the central issue revolves around a claim for a resulting trust concerning half shares of properties. The plaintiff asserts that the defendant holds these properties in trust for the plaintiff's benefit. Both parties acknowledged in their pleadings that they maintained a relationship and cohabited in various homes until September 2017. Their relationship began when the defendant was 49 and ended when she was around 60, highlighting a significant period during which the defendant invested considerable time, effort, and financial resources. The court recognised the weight of the defendant's commitment, particularly at such a late stage in her life. Rather than enjoying a peaceful, debt-free existence, the defendant assumed substantial financial risks, likely motivated by the promise of a shared future with the plaintiff. The court implied that no reasonable person would take such risks without the expectation of a substantial and meaningful relationship, including the promise of marriage.

In the above case, the defendant's willingness to take on debt and risk in her later years speaks to the depth of her commitment. This highlights how emotional and relational commitments can influence financial and legal obligations. The case raises questions about the implications of promises made in relationships. The court's acknowledgment of the promise to marry as a significant factor suggests that emotional assurances can have legal consequences, particularly in long-term partnerships where shared investments are made.

In *Wang Kang Xiang v Hee Chai Hui* [2022] 5 CLJ 983, a case involving a single mother, befriended the defendant on Facebook in 2002. After divorcing her husband in February 2018, the plaintiff and the defendant became a couple. The defendant moved in with the plaintiff at her father's home, and soon after, the plaintiff announced her pregnancy. The defendant reportedly promised to marry her, and they began planning their wedding. However, on the scheduled date for registration, the defendant failed to appear, leading to disputes between the two. The Sessions Court Judge found the defendant liable for breaching the promise to marry and awarded the plaintiff RM150,000 in general damages and RM100,000 in exemplary damages. The defendant appealed the decision. The High Court dismissed the defendant's appeal regarding liability but allowed it concerning the amount awarded. The court held that the plaintiff had recently divorced and had a child, indicating that she was not in a precarious position regarding future relationships. The court deemed the Sessions Judge's conclusion about the plaintiff's diminished marriage prospects to be incorrect. The plaintiff's conduct contributed to the breakdown of the relationship, and her pregnancy-related financial concerns should not have factored into the damages awarded for breach of promise to marry. The defendant's financial situation was considered; as a small-time contractor, the total award of RM250,000 would likely lead to significant financial hardship. The award of exemplary damages was deemed unjustified due to a lack of evidence for any aggravating conduct. The general damages were found to be excessive and not proportionate to the defendant's culpability, with the Sessions Judge failing to account for the plaintiff's role in the relationship's collapse. The court reduced the general damages to RM50,000 and eliminated the exemplary damages entirely.

From a socio-cultural perspective, the case underscores the difficulties encountered by single mothers as they deal with societal stigma while trying to gain support and acknowledgment for their roles as parents and

partners. The court's evaluation, which recognised the plaintiff's relatively secure situation after her divorce, reflects an increasing acknowledgment of women's autonomy in contemporary relationships. This stands in contrast to traditional views that often emphasise marital stability and impose societal expectations on women to uphold family honour. Additionally, the court's consideration of the defendant's financial situation demonstrates the court's efforts to maintain a fair balance in its decision-making.

Breach of Promise to Marry from Islamic Perspectives

Betrothal involves the element of giving speech or oath that a marriage will occur between two persons of opposite gender (Halili & Reza, 2016). Betrothal gives the couple a chance to see each other openly and formally before deciding to get married. Betrothal allows them to investigate the potential spouse through their friends, family members, neighbours or other means (Mohd et al., 2024). Islamic law recognises betrothal where primary sources from the Holy Quran and Hadith support such practice (Tajuddin & Gunardi, 2024). Al-Baqarah verse 235 explicitly mentions that “there is no blame on you if you make an offer of betrothal or hold it in your heart. Allah knows that you cherish them in your hearts.” In a Hadith narrated by Sunan Abu Dawud, the Prophet Muhammad S.A.W. said “When one of you asks a woman in marriage, if he can look at what will induce him to marry her, he should do so. Jabir said I asked a girl for marriage. I used to look at her secretly, until I looked at what induced me to marry her. I therefore married her.”

As Islam emphasises the importance of keeping promises, breaking it without valid reason is discouraged. Islamic jurists agreed that in the event of breach of promise to marry, mahr (dowry) must be returned if it still exists. If it is already consumed or lost, its value or equivalent must be returned to the aggrieved party. However, as regards gifts, the views of jurists differ. In Hanafi school, gifts can be returned if possible. According to Maliki school, if the man breaches the promise to marry, the woman can keep the gift. However, if the woman is the one who breaches the promise, the man can reclaim the gift. In Shafi'i school, gifts are required to be returned or compensated regardless of their existence. As for compensation for emotional pain, humiliation and suffering, classical jurists did not discuss this matter. However, contemporary scholars such as Shalabi and Zakiy al-Din Sha'aban contend that compensation is allowed if the breach causes actual harm (darar) (Mohd et al., 2024).

In Malaysia, since Islamic law falls under State jurisdiction, one example is the Islamic Family Law Family Law (Federal Territories) Act 1984 (IFLA) which applies to the Federal Territories. Section 15 of IFLA provides that “If any person has, either orally or in writing, and either personally or through an intermediary, entered into a betrothal in accordance with Hukum Syarak, and subsequently refuses without lawful reason to marry the other party, the other party being willing to marry, the party in default shall be liable to return the betrothal gifts, if any, or the value thereof and to pay whatever moneys have been expended in good faith by or for the other party in preparation for the marriage, and the same may be recovered by action in the Court.”

From the wording of section 15, it is clear that remedies recoverable are limited to return of gift and reimbursement of expenses made in good faith. There is no explicit provision for compensation due to humiliation or emotional distress. Case laws also seem to support this view. In *Aishah v Jamaludin* (1978) 3 JH 104, the Court awarded compensation for expenses incurred in the preparation of marriage only. In *Salbiah Othman v Hj Ahmad Abdul Ghani* (2006) JH 114, the defendant breached the promise to marry shortly before the wedding. The court awarded compensation for expenses only while rejecting the claim for humiliation. The Court observed that such claims are not within Syariah Court jurisdiction and are better suited for civil courts. Similarly, in *Mohd Azla bin Hj Kamaruddin v Mokhtar bin Hashim & Anor* (2007) 3 ShLR 128, the court only allowed compensation for the gift but dismissed the claim for humiliation on the ground that emotional harm is intangible and not covered under the law. Judges cannot rule on hidden feelings; only on clear, lawful provisions.

Interestingly, in *Nafsiah v Abdul Majid* (No. 2) [1969] 2 MLJ 175, although the Court rejected separate cause of action for humiliation and disgrace, the Court recognised that the plaintiff, a Muslim woman, had suffered humiliation and disgrace due to carrying and giving birth to a child out of wedlock. The defendant's failure to fulfil his promise to marry, despite being the father of the child. The court eventually awarded the woman

\$1,200 in damages, aggravated by the above fact in assessing the damages. However, this case was decided by a civil court prior to Article 121(1A). Due to the amendment to the Federal Constitution which inserted Article 121(1A), Syariah Courts currently have exclusive jurisdiction over matters listed in the State List, Ninth Schedule of the Federal Constitution including marriage and divorce. Civil courts are now barred from hearing cases that fall within the jurisdiction of Syariah courts (Ishak & Ab Aziz, 2022). Therefore, it is submitted that the acknowledgement of humiliation as an aggravating factor in the assessment of damages as held in Nafsiah's case does not bind Syariah courts to follow this precedent in Aishah, Salbiah, and Mohd Azla's cases.

CONCLUSION

A claim for breach of promise to marry requires proof that the breach has caused harm to the aggrieved party. This harm encompasses not only emotional pain, humiliation, and loss of honour but also significant financial repercussions, particularly if the party has incurred expenses in preparation for the marriage. The context is further complicated by socio-cultural and religious expectations, where marriage is seen as both a personal commitment and a societal obligation. Such pressures can lead individuals to sacrifice their future based on deeply held beliefs about marriage. This betrayal can intensify the emotional and financial distress experienced by the aggrieved party, especially in communities that hold marital commitments in high regard.

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REFERENCES

1. Abdullah, N. C. (2022). Remedies for breach of betrothal: The quest for survival? *International Journal of Academic Research in Business and Social Sciences*, 12(12), 43 – 51.
2. Aman, J., Abbas, J., Nurunnabi, M., & Bano, S. (2019). The relationship of religiosity and marital satisfaction: The role of religious commitment and practices on marital satisfaction among Pakistani respondents. *Behavioural Sciences*, 9(3), 30.
3. Brinig, M.F. (1990). Rings and promises. *Journal of Law, Economics, and Organisation*, 6(1), 203-215.
4. Cousens, T.W. (1932). Law of damages as applied to breach of promise of marriage. *Cornell Law Review*, 17, 367-394.
5. Gan, J.E. (2014). Breach of promise of marriage: Uncertain legal terrain and the complex contours of Shariah law. *Malayan Law Journal*, 2, i-x.
6. Gawas, V. M. (2017). Doctrinal legal research method a guiding principle in reforming the law and legal system towards the research development. *International Journal of Law*, 3(5), 128–130.
7. Gunther, R. (2017, June 2017). When promises become lies: The six most common types of excuses for broken promises. *Psychology Today*. <https://www.psychologytoday.com/intl/blog/rediscovering-love/201706/when-promises-become-lies>
8. Hairom, N. (2024, October 3). Weddings called off: Compensation claims available for affected parties. *Sinar Daily*. <https://www.sinardaily.my/article/221969/focus/national/weddings-called-off-compensation-claims-available-for-affected-parties>
9. Halili, F. & Riza, A. (2016). The betrothal and marriage – according to Islamic law (Shariah) and under the secular system. SSRN. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2852815
10. Haseli, A., Shariati, M., Nazari, M., Keramat, A. & Emamian, M.H. (2019). Infidelity and its associated factors: a systematic review. *The Journal of Sexual Medicine*, 16(8), 1155-1169.
11. Hutchinson, T. & Duncan, N. (2012). Defining and describing what we do: doctrinal legal research. *Deakin Law Review*, 17(1), 83-119.
12. shak, B., & Ab Aziz, S. B. (2022). A historical exposition on the fundamental features of the Federal Constitution and its importance to judicial interpretation: a study on Article 121 (1A). *IIUMLJ*, 30, 226.

13. Jafari, F., Neisani Samani, L., Fatemi, N., Ta'avoni, S., & Abolghasemi, J. (2015). Marital satisfaction and adherence to religion. *Journal of Medicine and Life*, 8(Spec Issue 4), 214–218.
14. Kaintura, M., Gill, H., Verma, S., Rawat, P., Jha, R.S. & Kumar, S. (2022). Legal study of sexual intercourse on the false pretext of marriage. *Journal of Positive School Psychology*, 6(2), 6317-6323.
15. Lettmaier, S. (2010). *Broken engagements: The action for breach of promise of marriage and the feminine ideal, 1800-1940*. Oxford University Press.
16. Majid, M.K. (1991). *Family Law in Malaysia*. Malayan Law Journal.
17. Mercer, C. L. (1971). Engagement, breach of promise and seduction. *Zimbabwe Law Journal*, 11(1), 48-68.
18. Mohd, A., Kadir, N. A., & Ibrahim, B. (2024). Betrothal and general damages for humiliation: an appraisal on harmonisation of shari'ah and civil law. *IIUM Law Journal*, 32(2), 86-117.
19. Peetz, J., & Kammrath, L. (2011). Only because I love you: why people make and why they break promises in romantic relationships. *Journal of Personality and Social Psychology*, 100(5), 887–904.
20. Rokach, A., & Chan, S. H. (2023). Love and infidelity: Causes and consequences. *International Journal of Environmental Research and Public Health*, 20(5), 3904.
21. Tajuddin, N.M. & Gunardi, S. (2024). Breach of betrothal in Malaysia: a comparative study between Syariah and civil law. *Jurnal Syari'ah & Hukum*, 6(1), 91-110.
22. Wright, H. F. (1924). The action for breach of the marriage promise. *Virginia Law Review*, 10(5), 361–383.