

## **Cross-Border Marriages: Socio-legal Knowledge among Muslims in Malaysia**

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### **ABSTRACT**

Cross-border marriage is a marriage without permission from the marriage registrar in each state and it is solemnised either in Malaysia or abroad. The purpose of this study is to examine and analyse the level of socio-legal knowledge among Muslims in Malaysia who solemnise the marriage either in Malaysia or abroad. A total of 400 respondents from four regions in Malaysia were recruited for this study. A questionnaire survey was the main data collection method and further supported by semi-structured interviews. Findings show the respondents were aware of the opportunity to register their marriage at the court but did not choose to do so. Therefore, the study proposes new stricter regulations and policies to control and curb cross-border marriages.

*Keywords:* Cross-border marriage, knowledge, Muslims, registration, strict regulation

### **INTRODUCTION**

Islam is a complete and comprehensive religion covering each and every aspect of human life. In order to strengthen the family institution, Islam has provided

guidelines and rules to ensure the welfare and harmony of a family. The Islamic law has detailed the rules and regulations regarding marriage to protect its sanctity. The Shariah law that is practised in Malaysia recognises a lawful marriage as abiding the pillars of marriage and complies with the requirements set out in the legal provisions enforced in each state. Marriage is one of the Sunnah of Prophet Muhammad (p.b.u.h), but it has been violated to accomplish one's wishes and desires, such as to get married without the families' permission or because

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the female is already pregnant out of wedlock. These 'wishes and desires' have led to new types of marriage contracts, such as eloping with future spouses or popularly known among Malaysians as *kahwin lari*. It may also be termed as cross-border marriage which is defined as a marriage without the consent of the authority such as the Islamic Religious Department in each state and the Syariah Court Judges (Noraini, 2011). Cross-border marriage has raised many issues and major problems for Malaysians mainly among the Muslims and Malays, particularly in matters related to marriage registration.

## METHODS

This paper uses both the quantitative and qualitative approaches. A survey was conducted among 400 selected respondents in Northern, Central, East and South regions of Malaysia using a set of questionnaires. Semi-structured interviews were also conducted with the informants who have the knowledge and experience in cross-border marriage. Data was analysed using SPSS version 22.

## Literature Review

**Islamic Law Perspective.** In Islam, cross-border marriage is not specifically mentioned. This raises certain issues regarding the guardian of the bride. Allah has mentioned that a widow is entitled to choose a man if she wants to get married upon the completion of her 'iddah period. Allah says;

If any of you die and leave widows behind, they shall wait concerning themselves for four months and ten days. When they have fulfilled their term, there is no blame on you if they dispose of themselves in a just and reasonable manner. And Allah is well-acquainted with what you do (Al-Baqarah: 234).

There are a few hadith that discuss the issue of guardianship in marriage;

Sufyan reported on the basis of the same chain of transmitters (and the right words are): A woman who has been previously married (thayyib) has more right to her person than her guardian and the virgin father must ask her consent being her silence. At times he said: her silence is her affirmation (Imam Muslim, Sahih Muslim translated by Abdul Hamid, 1999).

'A'ishah reported the Apostle of Allah (peace be upon him) as saying: The marriage of a woman who marries without the consent of her guardians is void. (He said these words three times). If there is cohabitation, she gets her dower for the intercourse her husband has had. If there is a dispute, the sultan is the guardian of one who has none (Sunan Abu Dawud translated by Ahmad Hasan, 1984).

**Malaysian Legal Perspective.** According to Section 19 of Islamic Family Law (Federal

Territories) Act 1984, no marriage shall be solemnised without the permission to marry—

- (a) by the Registrar under Section 17 or by the Syariah Judge under Section 18, where the marriage involves a female resident in the Federal Territory; or
- (b) by the proper authority of a State, where the marriage involves a female resident in that State.

From this section, we can conclude that any persons who get married without the permission of the marriage registrar will be charged and punished. The punishment is based on Section 40(2) of Islamic Family Law Act (Federal Territories) 1984 which allocates fine of not more than one thousand Ringgit Malaysia and imprisonment of not more than 6 months or both for the misconduct.

According to Section 31(1) of the Islamic Family Law (Federal Territories) Act 1984, any person who is a resident of the Federal Territory and who has contracted a valid marriage abroad according to *Hukum Syarak* and not being in a marriage registered under the Section 24, the person shall, within six months after the date of the marriage, appear before the nearest or most conveniently available Registrar of Muslim Marriages, Divorces, and Ruju' abroad in order to register the marriage. The marriage, upon being registered, shall be deemed to be registered under this Act.

The 52<sup>nd</sup> Conference of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia held on

1<sup>st</sup> July, 2002, discussed issues pertaining cross-border marriage in Southern Thailand. The Committee decided that marriage outside of the country is valid provided that:

- (a) the marriage fulfils the essential validity of a marriage,
- (b) the distance is more than two *marhalahs*, there is no court decision preventing the woman from getting married on legal reason and,
- (c) such a marriage is solemnised by a *wali* that has been vested by the law of the country.

Thus, Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia still considers such marriage as valid in Malaysia context, given the location exceeds two *marhalahs* and fulfils all conditions that have been prescribed by the laws and rulings. In identifying issues related to Cross-Border Marriages, a number of previous studies were used as reference by the researcher. However, this discussion will only focus on a few major works on this topic. To date, socio-legal studies regarding cross-border marriages are limited.

Noraini (2009) in her book, "Registration of Marriage in Malaysia: A Socio-legal Study of Runaway Marriages among Muslims", dealt specifically on cross-border marriages by analysing the demographic profiles of those involved in cross-border marriages. However, data utilised in her research were only obtained

through the applicants' files in court and religious offices.

Raihanah (2007) in her work, "Polygamy without the Shariah Court's Permission in Malaysia: A Socio-Legal Perspective", blamed the strict procedure in practising polygamy which has caused Muslim couples to commit cross-border marriage. By employing inferential statistical technique, the study attempted to prove polygamy as a predictor of cross-border marriage.

Cheng, Brenda and Rashidah (2012) claimed that foreigners, especially Indonesians, resort to marrying local Muslims in order to secure their economic positions and upgrade their social status. The authors interviewed Malaysians and Indonesians who were involved in such marriages. However, their study was not based on quantitative research. Thus, the current study fills this gap by using quantitative research method in analysing data.

## RESEARCH OBJECTIVE

The specific aim of this research is to examine and analyse the differences between demographic information and respondents' knowledge on cross-border marriages.

## RESULTS

### Descriptive Analysis

Table 1 shows the respondents' knowledge on the registration process of cross-border marriages in court. Overall, 79.5% of the respondents acknowledged

that marriages can be registered at the court. Specifically, more than three-quarters of the respondents (77.6%) knew that many Muslim married couples registered their marriages while 78.2% of them knew it is compulsory for all Muslims couples to register their marriages while 78.7% of them felt the court gives an appropriate judgement. In terms of perquisites, 79.9% of the respondents understood that the court gives appropriate benefits to all Muslim couples while the majority (80.8%) believed the court gives appropriate judgement to the children involved in such marriages and majority of the respondents (80.2%) deemed registering their marriage will make the family to happier. From Table 1, it is apparent that the court places much emphasis on the children's welfare as well as their families and 79.5% of the respondents perceived Muslim couples who registered their marriage as adequately literate on the current law enforcement. Moreover, 78.1% of the respondents perceived Muslim couples who registered their marriage as abiding the law. In fact, the majority of the respondents (82.6%) knew that the authorities in Malaysia strongly encourage Muslim couples to register their marriages. From the religious context, 79.5% of the respondents perceived those who registered their marriage adhere to the precepts of their religion.

### Inferential Analysis

Ten items in respondents' knowledge were analysed using the independent

Table 1  
 Respondents' knowledge on marriage registration at the court

No.	Knowledge towards marriage registration at the court	Level of Agreement					Mean*	SD	%
		1	2	3	4	5			
1	<i>I know many Muslim married couples registered their marriage.</i>	-	0.5	25.0	60.8	13.8	3.878	0.627	77.6
2	<i>I know that it is compulsory to register marriage for all Muslim couples.</i>	-	0.3	24.8	58.8	16.3	3.910	0.643	78.2
3	<i>I know that the court gives appropriate judgement to all Muslim couples.</i>	-	0.5	22.3	60.5	16.8	3.935	0.638	78.7
4	<i>I know that the court gives appropriate benefit to all Muslim couples.</i>	-	0.5	18.5	62.0	19.0	3.995	0.629	79.9
5	<i>I know that the court gives appropriate judgement to the children involved.</i>	-	1.0	17.0	59.3	22.8	4.038	0.661	80.8
6	<i>I feel that by registering the marriage, the family will be happier.</i>	-	0.5	21.3	55.0	23.3	4.010	0.683	80.2
7	<i>I perceive that Muslim couples who registered their marriage know the law.</i>	-	1.0	27.8	44.0	27.3	3.975	0.769	79.5
8	<i>I perceive that Muslim couples who registered their marriage are those who abide by the law.</i>	-	0.5	31.5	45.3	22.8	3.903	0.745	78.1
9	<i>I know that the authorities in Malaysia strongly encourage Muslim couples to register their marriage.</i>	-	1.0	19.5	45.3	34.3	4.128	0.750	82.6
10	<i>I perceive that those Muslim couples who registered their marriage are obedient to the religion.</i>	-	0.8	24.5	51.5	23.3	3.973	0.713	79.5
<b>Total</b>						<b>3.974</b>	<b>0.478</b>	<b>79.5</b>	

t-Test. The variable is tested according to the demographic information of the respondents. The purpose of the analysis is to differentiate between demographic information and respondents' knowledge regarding the registration process of cross-border marriages at court. For the independent t-test, respondents' knowledge of registration of cross-border marriage at court was tested according to gender (male-female), locality (rural-urban), and type of marriage (polygamy-monogamy) dichotomy.

### Independent T-Test for Respondents' Knowledge of Registration of Cross-Border

**Marriage at Court by Gender.** Table 2 shows the t-test results of respondents' knowledge by gender, in which no significant differences were found in the items. Overall, there are no significant differences between male and female in terms of respondents' attitudes towards marriage registration at court, given the result for male respondents was (M=3.986, SD=0.488) and the female

(M=3.960, SD=0.467). It was found that male respondents' knowledge of registration process of the marriage at court was slightly higher Overall, the t statistic value was 0.538 at 398 degrees of freedom and p-value of .591.

Table 2  
Independent t-test for respondents' knowledge by gender

Variable	Gender	N	Mean	SD	t	df	p
<i>I know many Muslim married couples registered their marriage.</i>	Male	220	3.886	0.634	0.312	398	.755
	Female	180	3.867	0.619			
<i>I know that it is compulsory to register marriage for all Muslim couples.</i>	Male	220	3.909	0.642	-0.031	398	.975
	Female	180	3.911	0.645			
<i>I know that the court gives an appropriate judgement to all Muslim couples.</i>	Male	220	3.923	0.640	-0.425	398	.671
	Female	180	3.950	0.637			
<i>I know that the court gives an appropriate benefit to all Muslim couples.</i>	Male	220	4.027	0.626	1.134	398	.257
	Female	180	3.956	0.633			
<i>I know that the court gives an appropriate judgement to the children involved.</i>	Male	220	4.073	0.651	1.179	398	.239
	Female	180	3.994	0.673			
<i>I feel that by registering the marriage, the family will be happier.</i>	Male	220	4.041	0.685	1.001	398	.317
	Female	180	3.972	0.680			
<i>I perceive that Muslim couples who registered their marriage know the law.</i>	Male	220	3.986	0.767	0.327	398	.744
	Female	180	3.961	0.772			
<i>I perceive that Muslim couples who registered their marriage are those who abide by the law.</i>	Male	220	3.932	0.734	0.870	398	.385
	Female	180	3.867	0.758			
<i>I know that the authorities in Malaysia strongly encourage Muslim couples to register their marriage.</i>	Male	220	4.109	0.757	-0.542	398	.588
	Female	180	4.150	0.744			
<i>I perceive that those Muslim couples who registered their marriage are obedient to the religion.</i>	Male	220	3.973	0.715	0.007	398	.994
	Female	180	3.972	0.712			
<b>Overall knowledge of the respondents towards marriage registration at court</b>	<b>Male</b>	<b>220</b>	<b>3.986</b>	<b>0.488</b>	<b>0.538</b>	<b>398</b>	<b>.591</b>
	<b>Female</b>	<b>180</b>	<b>3.960</b>	<b>0.467</b>			

**Independent T-Test for Knowledge of Respondents on Registration of Marriage at Court by Locality.** Data on the differences of respondents' attitudes (Table 3) in terms of locality (rural and urban) was analysed. There 118 respondents from the rural areas. There were two significant items. The first item, respondents' perception of the couples who

registered their marriages as abiding the law, was found as significant at (t=2.144, p=.033), while the second item, which is the respondents' perception of those Muslim couples who registered their marriage as obedient to the religion, was also found significant at (t=1.969, p=.050). In addition, the urban residences were found to be better informed.

Overall, the mean value for the rural and urban respondents was 3.953 and 3.983 respectively. Meanwhile, the standard deviation for rural group was 0.425 and for urban group 0.499. In this case, the t statistic was 0.564 at 398 degrees of freedom. The independent test p-value was 0.573, greater than 0.05. Thus, it shows that there is no statistically significant difference between the respondents in rural and urban areas in terms of their knowledge of marriage registration at court even though the mean value for urban area was higher.

**Independent t-Test for Knowledge of Respondents towards Registration of Marriage at Court by Type of Marriage.**

Table 4 shows the results of the independent t-test on the respondents' knowledge according to types of marriages, in which four items show statistically significant differences. First, the respondents know that the court provides appropriate judgement to all Muslim couples. (t=-3.214, p=0.001). For monogamous marriages, the mean is 3.832 and the standard deviation is 0.670 while the mean for polygamous marriage is 4.034

Table 3  
Independent t-test for respondents' knowledge by locality

Variable	Residence	N	Mean	SD	t	df	p																																																																																																																					
<i>I know many Muslim married couples registered their marriage.</i>	Urban	282	3.894	0.605	0.794	398	.428																																																																																																																					
	Rural	118	3.840	0.679				<i>I know that it is compulsory to register marriage for all Muslim couples.</i>	Urban	282	3.911	0.622	0.065	398	.948	Rural	118	3.907	0.692	<i>I know that the court gives an appropriate judgement to all Muslim couples.</i>	Urban	282	3.904	0.644	-1.493	398	.136	Rural	118	4.010	0.620	<i>I know that the court gives an appropriate benefit to all Muslim couples.</i>	Urban	282	3.965	0.653	-1.499	398	.135	Rural	118	4.068	0.566	<i>I know that the court gives an appropriate judgement to the children involved.</i>	Urban	282	4.007	0.696	-1.424	398	.155	Rural	118	4.110	0.567	<i>I feel that by registering the marriage, the family will be happier.</i>	Urban	282	4.004	0.703	-0.292	398	.770	Rural	118	4.025	0.633	<i>I perceive that Muslim couples who registered their marriage know the law.</i>	Urban	282	4.014	0.773	1.579	398	.115	Rural	118	3.881	0.753	<i>I perceive that Muslim couples who registered their marriage are those who abide by the law.</i>	Urban	282	3.954	0.751	2.144	398	.033	Rural	118	3.780	0.718	<i>I know that the authorities in Malaysia strongly encourage Muslim couples to register their marriage.</i>	Urban	282	4.160	0.754	1.323	398	.186	Rural	118	4.051	0.738	<i>I perceive that those Muslim couples who registered their marriage are obedient to the religion.</i>	Urban	282	4.018	0.738	1.969	398	.050	Rural	118	3.864	0.639	<b>Overall knowledge of the respondents on marriage registration at court</b>	<b>Urban</b>	<b>282</b>	<b>3.983</b>	<b>0.499</b>	<b>0.564</b>	<b>398</b>	<b>.573</b>	
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and the standard deviation is 0.590. Data shows knowledge of registration of cross-border marriage among respondents who practise monogamous marriage was less. Second, the respondents knew that the court gives appropriate benefit to all Muslim couples ( $t=-2.042$ ,  $p=.017$ ). The mean value for respondents in monogamous marriage was 3.918 and the standard deviation was 0.602. Meanwhile, the mean value for those in polygamous marriage was 4.069 and the standard deviation 0.647. From the figure, it can be concluded that the respondents who practise monogamous marriage had less knowledge in regards to benefits of registering cross-border marriage. Third, the respondents knew that the court gives appropriate judgement to the children involved in such marriage ( $t=-2.489$ ,  $p=.013$ ). The mean value for monogamous marriage was 3.954 and standard deviation 0.651, while the mean value for polygamous marriage was 4.118 and the standard deviation 0.663. Therefore, respondents who practise monogamous

marriage were less knowledgeable in terms of their appropriate judgement to children involved in cross-border marriages. Fourth, respondents knew the authorities in Malaysia strongly encourage Muslim couples to register their marriage ( $t=-2.142$ ,  $p=0.033$ ). The mean value for monogamous marriage was 4.046 and the standard deviation 0.767. Comparatively, the mean value for polygamous marriage was 4.206 and the standard deviation 0.727, indicating respondents in monogamous marriage had less knowledge with regards to the encouragement by the Malaysian authorities for Muslim couples to register their marriage. Overall, there was a significant difference between the respondents in monogamous marriage ( $M=3.921$ ,  $SD=0.496$ ) and polygamous marriage ( $M=4.025$ ,  $SD=0.456$ ) in terms of their knowledge on marriage registration at court with t-statistic value at -2.175 and p of .030 which is less than .05 acceptance threshold.

Table 4  
*Independent t-test for respondents' knowledge by types of marriages*

Variable	Type of Marriage	N	Mean	SD	t	df	p																																
<i>I know many Muslim married couples registered their marriage.</i>	Monogamy	196	3.827	0.616	-1.596	398	.111																																
	Polygamy	204	3.927	0.635				<i>I know that it is compulsory to register marriage for all Muslim couples.</i>	Monogamy	196	3.883	0.617	-0.834	398	.405	Polygamy	204	3.936	0.666	<i>I know that the court gives an appropriate judgement to all Muslim couples.</i>	Monogamy	196	3.832	0.670	-3.214	398	.001	Polygamy	204	4.034	0.590	<i>I know that the court gives an appropriate benefit to all Muslim couples.</i>	Monogamy	196	3.918	0.602	-2.042	398	.017
<i>I know that it is compulsory to register marriage for all Muslim couples.</i>	Monogamy	196	3.883	0.617	-0.834	398	.405																																
	Polygamy	204	3.936	0.666				<i>I know that the court gives an appropriate judgement to all Muslim couples.</i>	Monogamy	196	3.832	0.670	-3.214	398	.001	Polygamy	204	4.034	0.590	<i>I know that the court gives an appropriate benefit to all Muslim couples.</i>	Monogamy	196	3.918	0.602	-2.042	398	.017	Polygamy	204	4.069	0.647								
<i>I know that the court gives an appropriate judgement to all Muslim couples.</i>	Monogamy	196	3.832	0.670	-3.214	398	.001																																
	Polygamy	204	4.034	0.590				<i>I know that the court gives an appropriate benefit to all Muslim couples.</i>	Monogamy	196	3.918	0.602	-2.042	398	.017	Polygamy	204	4.069	0.647																				
<i>I know that the court gives an appropriate benefit to all Muslim couples.</i>	Monogamy	196	3.918	0.602	-2.042	398	.017																																
	Polygamy	204	4.069	0.647																																			

Table 4 (continue)

Variable	Type of Marriage	N	Mean	SD	t	df	p
<i>I know that the court gives an appropriate judgement to the children involved.</i>	Monogamy	196	3.954	0.651			
	Polygamy	204	4.118	0.663			
<i>I feel that by registering the marriage, the family will be happier.</i>	Monogamy	196	3.980	0.687			
	Polygamy	204	4.040	0.679			
<i>I perceive that Muslim couples who registered their marriage know the law.</i>	Monogamy	196	3.959	0.743			
	Polygamy	204	3.990	0.794			
<i>I perceive that Muslim couples who registered their marriage are those who abide by the law.</i>	Monogamy	196	3.837	0.760			
	Polygamy	204	3.966	0.725			
<i>I know that the authorities in Malaysia strongly encourage Muslim couples to register their marriage.</i>	Monogamy	196	4.046	0.767			
	Polygamy	204	4.206	0.727			
<i>I perceive that those Muslim couples who registered their marriage are obedient to the religion.</i>	Monogamy	196	3.980	0.709			
	Polygamy	204	3.966	0.718			
<b>Overall knowledge of the respondents towards marriage registration at court</b>	<b>Monogamy</b>	<b>196</b>	<b>3.921</b>	<b>0.496</b>			
	<b>Polygamy</b>	<b>204</b>	<b>4.025</b>	<b>0.456</b>			

## DISCUSSION

With regards to differences between demographic information and the respondents' knowledge on cross-border marriage registration, several differences can be noted. It was found that majority of the respondents had knowledge of marriage registration at the court. However, according to the independent t-test, respondents' knowledge of this according to gender showed female respondents were less knowledgeable even though it was not statistically significant. When a male respondent from Johor was asked regarding his decision to opt for cross-border marriage, he answered:

.... This marriage must be registered, if this marriage is unregistered, our life will be affected.... (Personal

Communication with Informant No.1, on 23 October 2014, Songkhla)

The study also discovered statistically significant difference between the urban and rural residents in terms of their perception of Muslim couples who registered their marriage as those abiding by the law. Additionally, it was noted that respondents who practised polygamous marriage had more knowledge about the court providing appropriate judgement and benefits to all Muslim couples.

Therefore, this study recommends increased awareness on the importance of marriage registration, especially among the rural communities.

## CONCLUSION

This study recommends the following to curb cross-border marriages as they affect the family institution:

- (1) Government agency such as the Legal Aid Department and Religious Office must have a one-stop centre or branch in every district so the rural people can access it easily for information
- (2) To promote the importance of marriage registration through mosques and seminar especially in rural area;
- (3) The government should amend the laws regarding cross-border marriage;
- (4) Legal education must start from the school.

In conclusion, legal factors play an important role in cross-border marriages. However, this study found the respondents' knowledge also played an important role in cross-border marriages. Therefore, it is proposed more research is undertaken in order to prevent cross-border marriage as it affects future of the women and children involved.

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