

Factors and Implications of Cross-Border Marriage among Malaysian Citizens

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ABSTRACT: *Cross-border marriage has been the choice of citizens of Malaysia to hasten the matrimony process. The Province of Satun in Thailand is a popular place to engage in a low cost and efficient marriage consultancy services. A qualitative research was conducted to identify the contributory factors to this phenomenon. Ten respondents were interviewed structurally by the researchers in Satun, Thailand. The interview sessions were recorded and transcribed for analysis purposes. The thematic method was applied to answer the research objectives. The findings showed that among the dominant factors were family arranged marriage, polygamy, acquaintance and others. Overall, cross border marriage is still a choice among Malaysians even though the strict procedure and laws on marriage have been alleviated by the local Islamic Religious Departments. Two implications have been identified, which are the psychosocial and economics implications, and the implication on the laws. The research also suggests that the authorities should further loosen the existing marriage procedures particularly in terms of the conditions for marriage and polygamy. Couples need to prepare themselves mentally and physically as well as with knowledge before deciding to get married across the border.*

Keywords: *cross-border marriage, psychosocial, economic, law*

I. INTRODUCTION

Marriage is one of the commandments in Islam which requires every able Muslims to obligate. It is in the nature of all humans whom God has created in couples. The subject of marriage is discussed at length in *fiqh munakahat* (family law) whilst in the aspects of law, the enacted Islamic family law covers the subject. According to Ahmad Ibrahim (1998), the Islamic Family Law is legislated according to the laws of *syariah* (Islamic law). Consequently, every Islamic country has its own set of Islamic Family Law to govern the marital matters of Muslims including Malaysia. The Islamic family law in Malaysia, however, is enacted respectively by each state. Its purpose is to control the affairs of Muslim couples' marriage and divorce; their rights before and during a marriage as well as after a divorce. The provisions of law in the Islamic Family Law which cover all matters related to matrimony require that all border marriages to be registered. Cross-border marriages have long been a practice, and involved Malaysian men marrying women from Thailand, Indonesia, Singapore and others, or Malaysian couples getting married in neighboring countries. This research will attempt to explain the issue of cross-border marriage that involved Malaysians with their spouses from Thailand.

II. PROBLEMS OF CROSS-BORDER MARRIAGE

The phenomena of local men involving in cross-border marriage are a matrimony issue in Malaysia. The issues revolve around local men's marriage to women from neighboring countries or the marriage of Malaysian couples in neighboring countries. The two issues are dissimilar and difficult to contain due to the fact that both implicate uncontrollable affection and lust. Subsequently, the couples decided to get married across the border in an effort to sanctify their intimate relationship. Normally, such occurrences are only felt by married men who wished to practice polygamy (Abdul Mokhsen Salleh, 2000). The obvious choice for brides would be women from neighboring countries because the wedding cost and *mahar* (dowry) are cheaper. Apart from that, the distance of the location is considered safe to travel as well as the close resemblance of the brides' culture. Nevertheless, many of these married men are willing to mislead and deceive their current wives by concealing their second marriage. In this way, they may avoid detection by their first wives because not all cross-border marriages are being registered with the local religious departments. Besides, such marriage does not require any approval from the first wife (Marziana Mohamad Kadir, 1994).

While the women from the neighboring countries may have known about the status of their husband, they still consented to be the wives. This is due to the fact that these women view Malaysian men as well-off and able to provide them with comfortable life (Cameron, 2008). In contrast, the first wives will hardly consent with their husbands' wish to take another wife. Therefore, cross-border marriage is the most convenient way for Malaysian men to practice polygamy. Instances in the state of Sarawak, Malaysia showed that many local polygamists chose women from Kalimantan, Indonesia. They visited their new wives once a week (Hazizan Mat Desa, 2003). The choice of being a polygamist across the border is because of the strict polygamy procedure in

Malaysia particularly on the condition that requires the consent or views from the existing wife or wives regarding the husband's polygamy application to the court (Md Zawawi Abu Bakar, 2012). Section 23 (3) is an excerpt regarding the application for polygamy:

“An application for permission shall be submitted to the Court in the prescribed manner and shall be accompanied by a statutory declaration stating the grounds on which the proposed marriage is alleged to be just and necessary, the present income of the applicant, particulars of his commitments and his ascertainable financial obligations and liabilities, the number of his dependants, including persons who would be his dependants as a result of the proposed marriage, and whether the consent or views of the existing wife or wives on the proposed marriage have been obtained”.

Eventually, the secret marriage will be unraveled and will affect the man's relationship with his first wife or all the wives and the children (Jones & Shen, 2007). Consequently, the ones that will suffer the most are the wives and their children across the border if they are to be divorced by their Malaysian husbands, especially if the marriages are not registered with any religious department. The children will face difficulties in term of citizenship because their parents lack the legitimate marriage certification (Mohamad Fauzi Ismail, 2000). This will subsequently lead to the never-ending custody battle in which the father will be granted the rights as the children's guardian if the cross-border marriage is not registered and at the same time the father himself has another registered marriage in Malaysia. In some cases, things got even complicated if the foreign ex-wives and her family refuse to surrender the children, and willing to take her children back to her country of origin. The matter will be prolonged and therefore will cause more complications to the relationship of the children with their parents after a divorce (Hasan Mardman, 1999).

Past studies have shown that children will not recognize their biological parents due to divorce. As they grow up, they may ask questions about their biological parents and will always meet with negative answers like the demise of the parents or being missing. Perhaps one day, they may accidentally meet with their own siblings in Malaysia or abroad, and at worst fallen in love and got married without knowing the factual truth (Dewi Maretawaty, 2012).

This type of cross-border marriage typically involves two individuals, a man and a woman, from two different countries; for instance, a Malaysian citizen marrying a foreign citizen from Singapore or Thailand. Usually this form of union occurs in secrecy. The married couples are required to re-register their marriage with the local religious department if it involves Malaysian citizens (Siti Shamsiah Mohd Sufi, 2008). They might be penalized with a fine of RM1000 (USD250) when they register for a re-verification of their marriage abroad. Referring to section 12 (1) and 23 of the Federal Territory Islamic Family Laws 1984;

Section 12 *“Notwithstanding subsection (1) and without prejudice to section 40(2) a marriage which has been solemnized contrary to any provision of this Part but is otherwise valid according to the Hukum Syara' may be registered under this Act with an order from the Court”.*

Section 23 *“(1) No man, during the subsistence of a marriage, shall, except with the prior permission in writing of the Court, contract another marriage with another woman nor shall such marriage contracted without such permission be registered under this Act:*

Provided that the Court may if it is shown that such marriage is valid according to Hukum Syara' order it to be registered subject to section 123.”.

The issue of marriage registration is among the problems face by the newlyweds who performed their marriage across the border. Often, it is the married man who wants to conceal his marriage from the knowledge of his existing wife. Usually, after the wedding, some husbands bring their second wives back to the country for a period of time and some left their second wives in her native country for a while before returning back at an agreed date and time (Noraini Md Hashim, 2007). The reason for such act is to conceal the second marriage from the knowledge of the first wife and family.

Unannounced cross-border marriage will cause either direct or indirect implications such as issues in marriage registration, child birth registration, distribution of inheritance, jointly acquired properties and family relationships. According to Syukri Fathudin (2008), it is doubted that majority of the husbands will be fair and just to each of the wives. Frequently, jealousy and envy between the first, and the second wife are inevitable even though the husband tries to be fair to both of the wives. This is one of the reasons as to why Malaysian husbands prefer to conceal their second marriage. However in due time, the secret will be out in the open especially when the second marriage faces problems or in the event of death of one of the spouses.

A research by Noraini Md Hashim (2007) found that majority of the grooms in the State of Kedah (Malaysia) practice polygamy through cross-border marriage. Unlike in the State of Kelantan (Malaysia), the

grooms were bachelors when they seek their life partners in the neighboring country to the north. There are several provinces in Thailand that have become the favorite locations for cross-border marriage, among these places are Narathiwat, Songkhla, Pattani, Yala and Satun. The marriage consultants at these locations provide *walis* (father or paternal grandfather and above of the bride) and witnesses at a lower price rate as compared to the rates in Malaysia. The process of *aqad nikah* (solemnization of marriage) is shorter and the marriage status is legitimate according to the *syariah* (Islamic law).

Thus, an exploratory qualitative study was conducted by the researchers to explain the contributory factors to the occurrence of cross-border marriage.

III. RESEARCH DESIGN

This is an exploratory research which was conducted qualitatively to investigate the issue of marriage across the Malaysian's state of Kedah and Perlis borders in Thailand.

Research Sample

Respondents of this research were widows or ex-wives of Malaysian men from the Province of Satun, Thailand. The respondents were interviewed face to face by the researchers in their native village of Kampung Guar, Satun, Thailand. The respondents were selected based on purposive sampling method; the village head had helped to identify the most suitable respondents. Before commencing the interview session, the questions were structured based on the research's objectives to be achieved. Every session was recorded and transcribed to ease the manual thematic analysis process.

Research Tools

Interview method was the main data gathering tool for this research. The questions and transcripts were constructed beforehand. The issue and the subjects contain in the interview covered the background of the marriage, contributory factors of cross-border marriage as well as the implications on psychosocial and economics, and the laws.

Data Analysis

Data was analyzed qualitatively using thematic analysis approach corresponding to the content of the interview. Then, the main themes were identified and categorized according to the relevance and frequency. Formulation on the analysis were constructed later to obtain the main data criteria according to the research objectives.

IV. RESULT AND DISCUSSION

Demography

The respondents involved in this research consisted of 10 Thailand women who were married to Malaysian men and they were either divorcees or widows. The result of the interviews showed that four factors had contributed to cross-border marriages which were family discussion, polygamy, acquaintance and marriage proposal by the husband.

Contributory Factors to Cross-Border Marriage

Table 1 below displays the information regarding the contributory factors to cross-border marriage among Malaysian men and their spouses from Thailand.

Table 1: Contributory Factors of Cross-Border Marriage

Factors	Respondent
Family discussion	R2 R4 R5 R7 R8 R10
Polygamy	R1 R3
Acquaintance	R9
Marriage proposal by the husband	R6

Note: R = respondent

According to Table 1 above, the main factor contributing to cross-border marriage among the respondents was family discussion with 6 respondents or 60 percent followed by polygamy with 2 respondents or 20 percent. The family discussion factor refers to a marriage arranged by family members such as parents,

siblings or relatives. The remaining 2 respondents involved with cross-border marriage due to acquaintance, and accepting the marriage proposal by the then future husband respectively (Noraini Md Hashim, 2007).

Implications of Cross-Border Marriage

The findings of the research have identified several implications on the Islamic family institution. The implications can be divided into two categories; psychosocial and economic implications; and, Islamic family law implications.

Psychosocial and economics implications

Marriage dissolutions had ended the family relationships between the respondents' and their husbands'. Communication breakdown as the main culprit had denied the holy matrimony to maintain the anticipated happiness. Feelings of love between the children and the parents had shattered because of the separation. The feelings of despair and frustration have scarred the respondents' emotion to this day when they had found out about their husbands' betrayal and irresponsibility (Syukri Fathudin, 2008). The situation also involved the aspect of economics when they had to take over the responsibility to raise the children on their own, and provide for the family in the event of divorce. Apart from that, they were denied the rights of inheritance and the husbands' pension.

Accordingly, the termination of the marriage had negatively affects the respondents' children. The men typically left their children with the ex-wives and returned to Malaysia. As a result these children will have a disruptive relationship with their biological father. Weissbourd (1999) stated that children who rarely see the father after a divorce will eventually forget about him. In a period of ten years, these children will completely have an erased memory of their father unless if there is some form of communication between them. Moreover, it is not too much to say that the children who had been abandoned live together with their mother in destitution.

The event had hindered the children's growth and development. According to one of the respondents in the interview, they felt hopeless because they had to live in hardship raising their young children back then. The worst part that had happened to some of them was that they were left with no property because their marriages were not registered in Malaysia and their rights of inheritance were forfeited (Palriwala & Uberoi, 2005).

The decision to end a relationship can become traumatic, chaotic and full of dramatic emotion. There are particular feelings, attitudes and emotional dynamics associated with the role of the individual who initiated the process of ending a marriage. For instance, it is normal for a spouse to have feelings of fear, relief, distance, impatience, doubt and guilt. At the same time, once the other half begins the process of separation the feelings of shock, lost control, abused, low self-esteem, anger and others start to cloud the mind.

Nevertheless, there is a probable certainty that rationalization process may take place in a spouse. For example, the feelings that the marriage cannot be saved anymore and divorce is the best solution. Perhaps the marriage itself has never experienced happiness from the beginning. The unpleasant state of the holy union itself may have generated the rationalization process to steer away from the undesired condition. Thus, the individuals involved will always experience these psychosocial implications.

Once a cross-border marriage ended regardless of the age of the couples; one of them will definitely leave the children with the other. The life of a single parent is complicated especially when it comes to raising children. Infants or toddlers who are left by one of their parents may experience disruptive growth. As they grow up they might feel left out, unloved and even feel that it is because of them that the parent left. The absent of one of either parent affects the children directly as well as depriving the children the elements of physical and social support (Cameron, 2008).

Islamic Family Law implications

Marriage that takes place across border will suffer consequences if it is not register with any Malaysian Islamic Religious Department under the provision of the Islamic Family Law according to Islamic Family Law (State Of Selangor, Malaysia) Enactment 2003.

The consequences will be the deprivation of the rights in a marriage as unregistered marriage is considered as non-existent according to the law. Examples of rights in a marriage are the right to inheritance as well as the rights to *mutaah* (consolatory gift) if the marriage is dissolved without proper reasons in accordance to the *syariah* (Islamic law). Couples of unregistered marriage can be penalized of up to RM1000 (USD250) or faced jail sentence not more than 6 month or both (Sec. 32 Islamic Family Law). Besides that, the wife is forfeited from receiving the husband's pension money if their marriage was conducted across the border and is not registered under the Malaysian law according to Pension Act 1980 (Act 227). According to Islamic Family Law (Federal Territory, Malaysia) Act 1984 (Act 303) also it very important to note that the cross-border marriage should comply with the *syariah* (Islamic law) to be eligible to be registered in Malaysia.

V. CONCLUSION

This research has identified that the main reason for cross-border marriage is family discussion. The actual problem of cross-border marriage starts when the marriage itself is not being registered in Malaysia. Inevitably, the couples concerned will face consequences; there are psychosocial and economics implications as well as with the laws. Subsequently, several recommendations have been presented to the Islamic Religious Department to further alleviate the marriage procedure in Malaysia. At the same time, it is advisable for the women especially to the ones who are getting married to equip themselves with the appropriate knowledge and take measures to contact the authority to resolve problems should they occur in a cross-border marriage.

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