

## Examining Weaknesses in the Governance of Premarital Course for Muslims in Malaysia

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### Abstract

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A premarital course is a two-day course which is made compulsory to Muslims in Malaysia. This study attempts to examine significant weaknesses in the governance of such pre-marital course. Qualitative method is used in which the legal and administrative aspects are studied and analysed to investigate the loopholes of the existing system. This research also employed a semi structured interviews conducted on several respondents from the related institutions. Findings of this research show some significant weaknesses in the present governance of premarital course and propose important recommendations for the betterment of Muslim families in Malaysia. The findings provide on how the legal and administrative mechanism relating to premarital course can be improved and subsequently aid the relevant authorities or institutions involved in policy making pertaining to family matters and its implementation.

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### 1. Introduction

One of the important requirements to be fulfilled for the application of marriage for Muslims in Malaysia is the premarital course which is a prerequisite in every state of Malaysia, except Sarawak. (Zawiyah, 2013; Sabariyah, 2012). This initiative was implemented in 1996 and the standardized module called Integrated Module for Premarital Course (Module Bersepadu Kursus Pra-Perkahwinan Islam (MBKPI) was introduced by department of Islamic Development Malaysia (hereinafter called

JAKIM). The issue here is, to date there is no such comprehensive research done discussing the weaknesses of the course. However a few literatures can be referred to understand some important aspects of the course. Research by Nasirah and Abdullah (2009), for example, investigate the participants' knowledge after attending the pre-marriage course. Unfortunately, the study does not cover the important weaknesses relating to the course. Another aspect of research that has been done is relating to the effect of premarital course (Shiraz, 2009). However, the research focuses only on some of the good implications, and does not touch on the loopholes of the course. Interestingly, a latest study by Rosniza, (2012), shows that the premarital course has received good responses from the participants. However, the research is not comprehensively done as it involve a limited participants which specific area. In this regard, this research is carried out to find out weaknesses particularly relating to the legal and administrative aspect for the purpose of improving the existing system.

## **2. Methodology**

This study is a qualitative research, in which the premarital course procedures and formalities are studied and analysed. In this regard, library research is used to examine the existing policy and its related issues. Extensive literatures in the form of books, journal articles, procedures/guidelines and relevant websites are referred to provide insights and information relating to the research topic. This research also employs a semi-structured interview in which several related institutions are selected. Those are States Islamic Religious Department (hereinafter called JAIN) and Family, Social and Community Division of the Department of Islamic Development Malaysia (JAKIM). This interview method is important to examine the current practice and to identify their loopholes. In this study, procedures from selected states in Malaysia are chosen to highlight differences in certain rules and applications. Several recommendations are suggested to improve the existing governance system.

## **3. Result and Discussion**

With regard to the premarital course in Malaysia, it is undeniable that the course is very important and beneficial to the couples, however, there are some weaknesses relating to the governance of this course, which are among others:

### *3.1 Nature of the Course*

For this premarital course, the prospective bride and bridegroom are required to attend and complete a two-day course or thirteen hours for them to be awarded a certificate of completion that is to be produced in the application of marriage. With regard to the module of premarital course, it consists of three parts. The first pertains to *aqidah* (faith), *ibadah* (worship), *akhlaq* (moral) and procedure of marriage, the second is communication in family, health issues, time and financial management, and the third part concerns the dissolution of marriage, stress or conflict management and counselling services (Integrated Module for Premarital Course, JAKIM, (n.d.). The problem is too many modules should be completed within short periods i.e. 2 days and this will affects its effectiveness. In this regard, a periodical course especially after marriage is a better alternative that should be taken into

consideration. As the divorce rate is alarming (JAKIM, 2011), post-marriage courses will certainly be useful to reduce the risk of divorce among Muslim couples. The course is important to ensure the lifelong education, specifically on marriage, is available for the marriage couples. With regard to the course content for the periodical course, it should be extended to cover personal development, childcare, psychology, parent-child relationship, resource management and any family related issues. The main objectives are to provide relevant information on marriage and family throughout their married life.

From this course, parents could also review their roles, gain understanding of the various stages of child development, and have opportunities to study the management of individual and family. To ensure its benefits, it is suggested that this periodical marriage courses should be made obligatory and be included as part of the requirement for work promotions.

With regard to the content of the course, the practice of Singapore should be taken as an example as they provide three different courses that are different in term of its nature and module i.e., Young Couples Programme (for age 18-20 years), Pre-Marriage Guidance Course, and Re-Constituted Marriage Programme. The Young Couples Programme (age 18-20 years) is a special programme to guide young couples embarking on the journey as a family (Registry of Muslim Marriage (ROMM) of Singapore, 2014). The Pre-Marriage Guidance Course which is known as *Cinta Abadi* or Marriage of a Lifetime Marriage Preparation Course (MPC) is developed to guide married- to- be couples who are 21 years old and above and marrying for the first time. The course is provided to help married-to-be couples to better understand each other in critical areas such as communication, financial planning, conflict resolution and ways to attain a happy marriage that lasts for a lifetime. The Re-Constituted Marriage Programme is a special programme crafted for those who want to remarry in which the purpose is to equip themselves with the skills and ways on how to establish a strong step family (Registry of Muslim Marriage (ROMM) of Singapore, 2014). Unfortunately in Malaysia there is only one course available regardless of age and type of marriage.

### 3.2 Exemption from Attending the Course

The second issue worth mentioning is the exemption given to a certain group of people from attending the course without reasonable justifications. Even though the premarital course is made compulsory to every prospective husband and wife, there are those who would be excluded from attending the course. Interestingly, these exemptions differ between states. In Selangor for example, the exemption is given to divorcees or widowers who are 40 years and above, and the disables such as the deaf, the blind and the mute. In addition, the state of Selangor does not make attending the course compulsory to foreigners who do not understand Malay and also to those who the Registrar excludes (Checklist of the Application of Marriage, 2015).

However, in the Federal Territories, the exemption is given to any men above 45 years and women above the age of 40 whether they are divorcee/widower or not (<http://www.jawi.gov.my/Prosedur/memo>). Interestingly, in the state of Negeri Sembilan, there is no exemption, however, the Registrar has the discretion on those whom he thinks may be excluded (Mat Jusoh, 2012). The state of Kedah has the same exemption like Selangor but the age limit is 40 for men

and 45 for women regardless of the status, either bachelor or divorcee/widower (Abdul Halim, 2012), whereas Johor has the highest limit of age, that is 45 for women and 50 for men (Ahmad Hanif, 2012).

The state of Kelantan, on the other hand, has its own exemption for attendance of the premarital course. The state Islamic Religious Department exempted those who have certificate of Secondary Religious School (SMU), or certificate for Higher Religious Education (STU), degree of Islamic Studies and those experienced at least five years studying at the Islamic traditional school (*sekolah pondok*) (Mohd Abdul Aziz, 2012). Hence, it is argued that exemption should not be given to those from religious school or graduated in Islamic Studies as the module of premarital course is not confined to *Shariah* or Islamic knowledge. The course includes other important topics that help the couple to learn skills such as problem-solving, time and financial management, and effective forms of communication that strengthen their relationships in which those topics are not covered in their Islamic Studies Module. In addition, the participants are exposed to more practical aspects of knowledge such as the procedure of divorce and the proper way to get counselling service if they face marital conflict (Integrated Module for Premarital Course, JAKIM, (n.d.).

Interestingly, in Penang and Johor, in addition to attending the premarital course, the prospective husband and wife also have to attend an interview conducted by the State Islamic Religious Department. The interview does not have a passing mark, as the sole purpose is to ensure that the applicant has at least basic religious knowledge prior to getting married (Ahmad Hanif, 2012; Hafiz, 2012).

In view of the above, we opine that the exemption from attending the premarital course should not be given to anybody, as the course is an important means to disseminate knowledge of the roles and responsibilities of husband and wife. Research shows that marital problems and divorce facing Muslims in Malaysia are mostly caused by their failure in carrying their respective responsibilities. Among the factors identified are the failure of the husband in giving maintenance, the fidelity of the husband or wife, desertion, and the husband's involvement in social problems such as drugs, gambling, and alcohol (Abdul Kadir, 1995). Whereas in northern states, studies show that the main cause of divorce is the misunderstanding or the conflict between husband and wife (Abdul Kadir, 1993). In addition, data from the Counselling Unit of the State Islamic Religion Departments of the three states in Malaysia reveals more than 40 types of marital problems facing Muslim Malay women in Malaysia which could lead to divorce. Many problems related to disputes are caused by poor communication, lack of morality and social problems (Raihanah, 2008; Idris, 1993; Osman, et al., 1990). For such reasons, it is argued that the exemption from attending the course should not be given to anybody without reasonable justifications.

The criterion of age as an exemption to the premarital course is not relevant in present times as current research proves that the rise in divorce among people over the age of 50 is an emerging trend, especially in developed countries (Divorce Statistics Concerning Age, 2012). Furthermore, since Muslim society in Malaysia is plagued by rising divorce rates (JAKIM, (2011; Jones, 1994), all applicants of any age, able or disable, whether bachelor or divorcee/widower, locals or foreigners, whether first or second marriage (polygamy) should attend the course.

For those who could not understand Malay, efforts must be taken by the State Islamic Religious Department (JAIN) to conduct the course in English or any language that they find suitable. Denying a compulsory premarital course for those groups is a form of discrimination. Similarly, for the polygamous marriage it is suggested that the appropriate module suitable to the nature of this marriage should be designed. Excluding a man who wants to contract a polygamous marriage from attending a premarital course is unjustified as research shows that the more frequently a person enters into marriage, the higher the divorce rate (<http://www.tips-for-marriage.com/current-divorce-rate.html> (2013)). Several researches show that polygamous marriage is one of the factors that contribute towards the instability of a family which could lead to divorce (Siti Fatimah, 1998; Idris, 1993; Abdul Kadir, 1998).

### *3.3 Statutory Requirement*

The third issue pertains to the statutory requirement of the premarital course. In all Malaysian states other than the state of Negeri Sembilan, the premarital course has not been made a statutory requirement. It is only part of procedures before the solemnisation of marriage which has no legal effect. However, the course is stated in Section 23 of the Islamic Family Enactment of Negeri Sembilan (2003) which provides that,

“The application of each party together with a recognised Sijil Kursus Perkahwinan be delivered to the Registrar at least seven days before the proposed date of marriage, but the Registrar may allow a shorter period in any particular case”.

The above provision clearly stated that the application form of marriage and certificate for the premarital course should be submitted to the Registrar at least seven days before the proposed date of marriage. However, the provision does not make the premarital course compulsory as the word used in the provision is “together with” which does not carry to the meaning of “must”. The appropriate word used should be “shall,” “must” or “compulsory”. Furthermore, there is no penalty available in the Enactment for those who do not fulfil such requirement. According to Fatimah (2012), this is done purposely to avoid unnecessary inconveniences to the prospective husband and wife.

Similarly, the Federal Territories has taken an effort to introduce the premarital course as one of the marriage procedures under Section 134 of the Islamic Family Law Act (hereinafter called IFLA). However, the draft is still being reviewed by the Legal Advisory Division of JAKIM before it can be submitted to the Selangor Islamic Religious Council or known as Majlis Agama Islam Selangor (Muhammad Qari, 2012). The purpose of making it a statutory requirement is to prevent it from being challenged in court (Fatimah, 2012).

In commenting this issue, Siti Zalikah (2014), and Mohamed Azam (2014), opined that the premarital course and any other procedures which are not made a statutory requirement could be questioned and challenged in court. In this regard, we argue that since the premarital course is important for the couple to get information that could help them in building the foundation of their marriage, the course should be made a statutory requirement by every State in Malaysia, in which failure to fulfil such a requirement will result in the rejection of the marriage application. The purpose

of making the course a statutory requirement is to make it legally binding and prevent it from being challenged in court.

#### 4. Conclusion

From the discussion, it can be concluded that, the absence of the standard guideline by JAKIM on the governance of premarital course for Muslims in Malaysia is a source of confusion regarding marriage. It should also be avoided for the sake of equality and justice. Moreover, the absence of a standard guideline on the discretionary power given to the Chief Registrar in excluding the applicant from attending the premarital course shows non-uniformity in its implementation. It is submitted that the criterion of age as an exemption to the premarital course is irrelevant as the knowledge of marriage and family is for everybody regardless of age. Regarding the nature of the course, it is recommended that the periodical marriage course especially after marriage should be held to equip spouses with variety of information pertaining to family management. Those are some weaknesses relating to the governance of the premarital course, which should be resolved by the relevant authorities the betterment of Malaysian family life.

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