

The Role of Islamic Religious Department of Selangor in Managing Rohingyas Refugees' Marriage

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Abstract

This study focuses on the initiative of the Selangor Islamic Religious Department (JAIS) in addressing the issue of Rohingya refugee marriage in Malaysia. Rohingya refugees originate in the state of Rakhine, the western part of Myanmar, which is bordered by Bangladesh. The formation of the Rohingya identity is influenced by Islamic religious and mixed marriages between Persian and Arab merchants with locals. Citizenship rights of the Rohingya have been denied by the Myanmar government and they are also discriminated against by locals of the majority Buddhist. This situation forced them to become refugees to save themselves and build a new life. Malaysia is among of the main destinations of the Rohingya refugees even though the government does not recognize the status of them. The uncertainty of life in Malaysia also affects social relationships among them, especially in the context of marriage. Hence, qualitative research methods are used to obtain information in this study. In-depth interviews were conducted from the Islamic religious officials such as the Department of Islamic Development Malaysia (JAKIM) and JAIS at their institutions around Putrajaya and Shah Alam. The findings show that JAIS is the first government agency to initiate a marriage guideline for Rohingya refugees who are Muslims, especially the Rohingya refugees who reside in Selangor. This effort is aimed at helping to manage the marriage of the Rohingya refugees in fulfilling the legal requirements of Islam (Islamic law). However, JAIS will not process the Rohingya refugee marriages that do not possess UNHCR refugee cards. This is because it involves security issues and is contrary to national laws specifically the Immigration Act..

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I. INTRODUCTION

Malaysia is one of the world's major destinations for refugees to save themselves and build a new life (Ahmad, Abdul Rahim dan Mohamed, 2016). As of end May 2019, there are some 173,730 refugees and asylum-seekers registered with the United Nations High Commissioner for Refugees (UNHCR), an international agency under the auspices of the United Nations in Malaysia. Based on these figures, there are some 150,430 are from Myanmar, comprising some 93,190 Rohingyas, 24,490 Chins, 9,730 Myanmar Muslims, 3,990

Rakhines&Arakanese, and other ethnicities from Myanmar (UNHCR Malaysia, 2019)

According to the statistics of refugees in Malaysia, the Rohingyas is the largest number recorded in Malaysia and this situation affects their daily lives here especially in the context of social relations. Hence, this study focuses on the situation faced by Rohingya refugees in Malaysia in the issue of marriage and Islamic Religious Department of Selangor (JAIS) involvement in addressing them. About the research methodology, a qualitative-based approach has been conducted by organizing an in-

depth interview session on Islamic Religious Department of the Islamic Development Department (JAKIM) and JAIS at their institutions around Putrajaya and Shah Alam.

II. RESEARCH BACKGROUND

The majority of the Rohingyas are from Rakhine, a state located in the West of Myanmar and is bordered by Bangladesh. History stipulates that the formation of the Rohingya identity was influenced by the spread of Islam as early as the 10th century from Middle Eastern traders such as Arab and Persian lands. Then, it was followed by mixed marriages between traders and local residents who eventually formed a community group called Rohingya (Yegar, 2012). The term Rohingya was also expressed by Francis Buchanan, in his study of the people and languages of Myanmar in 1799 "I shall now add three dialects, spoken in the Burma Empire, but evidently derived from the language of the Hindu nation. The first is that spoken by the Mohammedans, who have long settled in Arakan, and who call themselves Rooinga, or natives of Arakan." (Buchanan, 1799).

Rohingya's security in Rakhine and Myanmar was not prolonged as their rights were denied by the government. Discrimination against the Rohingyas began blatantly when the military junta government had seized power of politics and the Myanmar government on March 2, 1962 headed by General Ne Win (Huang, 2012). The Myanmar Junta government has carried out ethnic cleansing especially against the Rohingyas who forced them to flee abroad to save themselves.

AizatKhairi (2018) explains that there are five major exoduses of Rohingya refugees that began in 1978, 1991, 2012, 2015 and 2017. Rohingya's refugee situation was also influenced by ethnic conflicts that occurred in Rakhine when most locals were Buddhists suppressing the Rohingya hard. The average Rohingya refugee makes Bangladesh a major destination to save itself due to its geographical factors bordering the country and facilitating them to

run there. However, there are Rohingya refugees making other countries such as Pakistan, Saudi Arabia, India, Thailand and Malaysia as an alternative destination to rebuild their destroyed lives in their home country. Malaysia is one of the destinations for Rohingya refugees to save themselves due to factors such as Islam, peace and economic opportunities that have led the Rohingya refugees to stay in the country (Aizat and Andika, 2018).

III. DISCUSSION: THE ROLE OF ISLAMIC RELIGIOUS DEPARTMENT OF SELANGOR (JAIS) IN MANAGING ROHINGYAS REFUGEES' MARRIAGE

JAIS was established officially in 1948 and acted as a state government agency focusing on Islamic religious affairs in the state of Selangor. The JAIS Family Law Division is the first state government agency in Malaysia to set up marriage guidelines especially on Muslim refugees. It was created after JAIS held a meeting with JAKIM and representatives from the UNHCR to discuss the issue of marriage of refugees in Malaysia, especially the Rohingya refugees residing in Selangor. The main purpose of the marriage guidelines made by JAIS is to assist the Rohingya refugees so they can legally register their marriage and to avoid the occurrence of adultery and incest.

The JAIS family law section has taken the initiative by seeking to register marriages for Muslim Rohingya refugees who want to marry in Selangor (JAIS, 2014). The JAIS family law section uses the Selangor Islamic Family Law Enactment (EUUKIS) 2003 which is guided in the management of Muslim family affairs in Selangor. Section 4 EUUKIS 2003 states "Except as otherwise expressly provided, this Enactment applies to all Muslims living in the state of Selangor and to all Muslims residing in the state of Selangor but living abroad".

Based on the provisions of Section 4 EUUKIS 2003, this enactment also applies to Rohingya refugees

who have UNHCR refugee cards. JAIS also noted the consent of the Registrar General of Marriage, Divorce and Reconciliation of the 32nd to 6th May 2015 which agrees with the visit of Immigration Affairs Department, Ministry of Home Affairs (BHEI-KDN) on April 8, 2015. The result of the discussion between JAIS and BHEI-KDN there are two agreed resolutions that JAIS can manage the Rohingya refugee marriage with UNHCR refugee cards and JAIS cannot manage refugees who do not have UNHCR refugee cards. For Rohingya refugees who want to register and get married in JAIS then there are certain documents that need to be attached by both sides of men and women.

For Rohingya refugee applicants who have fulfilled the conditions stated, then they can continue their marriage affairs and this couple will be married to a JAIS's accredited Islamic scholar (JuruNikah). Thus, they are eligible for a marriage certificate issued by JAIS as the certificate of marriage given to the local. However, the certificate of marriage issued by JAIS is not a supporting document that any Rohingya refugees can use to become permanent residents in Malaysia because according to UstazSuhaimiAkmalWakid "We (JAIS) help to manage the Rohingya refugee marriage business solely to fulfill the legal requirements of Islam (Islamic law). The marriage certificate does not promise any privilege for them (refugees) to settle in Malaysia".

Despite the JAIS initiative of marriage process for Rohingya refugees, there are some Rohingyas that have been married to their own organizations in the state of Selangor. For such cases JAIS will review the contents and details of the

letter or certificate of marriage issued by the Rohingya refugee organization. After being satisfied, JAIS will issue a confirmation letter to support the marriage, but JAIS will not issue a marriage certificate because they did not undergo a wedding process under JAIS.

IV. THE APPLICATION PROCEDURE FOR MARRIAGEREGISTRATION BY ROHINGYAS

For Rohingya refugees who want to register and establish their marriage in JAIS then there are documents to be attached to both parties namely men and women. The following are the requirements of the documents for male and female applicants:

1) Men's Applicants:

I. Copy of UNHCR refugee card applicant.

Copy of MyKad (Nationality) / Passport (Foreigner) / UNHCR Card for 2 male witnesses.

Certificate of Pre-Marriage Course and its copy (Recognized by JAKIM / JAIS / JAWI / JAIN).

IV. HIV screening test records (only in government clinics only).

V. Form 1 (declaration of residency) certified by the Nazir Mosque / Chairman of the Resident Committee / Chairman of the Housing Park / Chairman of the JKKK / PenghuluMukim (for the applicant with different address of the residence with the address on the UNHCR card).

VI. Divorce Certificate and Copies / Certificate of Marriage and Death Certificate of the spouse and their copy / Decree Faraq Marriage Order (if the applicant is a widower).

VII. Letter / Certificate of Islam and copy (If the applicant is a new relative).

VIII. UNHCR status confirmation letter from UNHCR administrative office or Putrajaya Immigration, Security Unit.

IX. Marriage Permission Letter from the Chief Registrar of Marriage, Divorce and Consultation.

X. Copy of Form 2A and supporting documents (If the applicant marries outside the county / state / country)

2) Woman Applicant:

I. Copy of UNHCR refugee card applicant.

Copy of MyKad (Nationality) / Passport (Foreigner) / UNHCR Card for 2 male witnesses.

Copy of MyKad (Nationality) / passport (Foreigner) / UNHCR evacuation card guardian.

IV. Certificate of Pre-Marriage Course and its copy (Recognized by JAKIM / JAIS / JAWI / JAIN).

V. Record of HIV screening test (only in government clinic only).

VI. Form 1 (proof of residence confirmation) certified by Nazir Mosque / Chairman of Resident Committee / Housing

Park Chairman / Chairman of JKKK / PenghuluMukim (for applicants with different address of residence with address on UNHCR card).

VII. Letter of permission to marry men.

VIII. Parent's Marriage Certificate and copy of / Parent's declaration of marriage.

IX. Certificate of death of a wali and his copy / Declaration of the oath of guardian of guardian.

X. Divorce and Copy of Certificate / Marriage Certificate and Death Certificate of the spouse and copy / Decision of Faraq Marriage Order (if the applicant is widow / widow).

XI. Letter / Certificate of Islam and copy (If the applicant is a new relative).

XII. UNHCR status confirmation letter from UNHCR administrative office or Putrajaya Immigration, Security Unit.

XIII. Marriage Permission Letter from the Chief Registrar of Marriage, Divorce and Consultation.

XIV. Copy of Form 2C, 2D and supporting documents (If the applicant is married outside the county / state / country).

V. CONCLUSION

Although JAIS has guidelines and procedures for marriage on refugees, especially Rohingya refugees, it is only restricted to those with UNHCR refugee cards. JAIS will not process the marriage of refugee families who do not have UNHCR refugee cards as they are against the laws of the country especially the Immigration Act and also involve security issues. Therefore, there are Rohingya refugees who do not have UNHCR refugee cards or are waiting for their cards to be processed by UNHCR to continue their marriages under the purview of refugee camps founded by their own communities. Therefore, JAIS's ability is limited to the affairs of assisting Rohingya refugees who are married under his or her confirmation if there are any household-related issues such as misunderstanding, torture or divorce.

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