

Pre-Marital Education: Concepts and Regulations in Indonesia and Malaysia

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Abstract

One of the most significant ways to create a happy family and minimize divorce is premarital education. Indonesia and Malaysia are two countries that have realized it and have regulated it in the regulations of their respective countries. This paper focuses on studying the concept and regulation of premarital education in these two countries. This paper uses a normative juridical approach using library research and comparative law. This study found that premarital education aims to create household happiness to avoid divorce. Indonesia regulates it in the Decree of the Director-General of Islamic Religion by implementing the Office of Religious Affairs or institutions recognized by the Ministry of Religion. Meanwhile, in Malaysia, it differed according to state regulations, such as enactment 11 of 2003 amendment of the Islamic Family Law (Negeri Sembilan) 2003 Part II of Marriage Section 16 concerning Applications for Marriage Truth and carried out by the Malaysian Islamic Progress Office. Premarital education, although both aim to create a family and minimize divorce, in Indonesia, it only provides guidelines, while in Malaysia, it is a mandatory requirement for prospective brides to get married.

Keywords: Islamic family law; pre-marital education; regulation

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Salah satu cara yang dianggap paling signifikan untuk mewujudkan keluarga bahagia dan meminimalisir perceraian yaitu melalui pendidikan pra perkawinan. Indonesia dan Malaysia merupakan dua negara yang telah menyadarinya dan telah mengaturnya dalam peraturan masing-masing negara. Tulisan ini berfokus pada kajian konsep dan regulasi pendidikan pra nikah di dua negara tersebut. Tulisan ini menggunakan pendekatan normatif yuridis dengan cara studi kepustakaan dan perbandingan hukum. Kajian ini menemukan bahwa pendidikan pra nikah bertujuan untuk merealisasikan kebahagiaan rumah tangga sehingga terhindar dari perceraian. Indonesia mengaturnya dalam SK Dirjen Urusan Agama Islam dengan pelaksana Kantor Urusan Agama dan/atau lembaga yang telah diakui oleh Kementerian Agama. Sedangkan di Malaysia berbeda-beda sesuai ketentuan di negara bagian, seperti Enakmen 11 Tahun 2003 Enakmen Undang-Undang Keluarga Islam (Negeri Sembilan) 2003 Bahagian II Perkawinan Seksyen 16 mengenai Permohonan untuk Kebenaran Berkahwin dan dilaksanakan oleh Jabatan Kemajuan Islam Malaysia. Pendidikan pra nikah, meskipun sama-sama bertujuan mewujudkan keluarga bahagia dan meminimalisir perceraian, namun di Indonesia, ia hanya berupa anjuran, sedangkan di Malaysia merupakan syarat wajib bagi calon pengantin untuk dapat melangsungkan perkawinan.

Kata Kunci: hukum keluarga Islam; pendidikan pranikah; regulasi

In addition, in the view of Olson and Defrain, divorce occurs because a married couple is not ready to face the challenges that arise in a family.⁸ According to Nur Fathya, the unpreparedness of a married couple is caused by a lack of knowledge of family life.⁹ In this case, knowledge of family includes various aspects; faith, psychology, health, economics, and so on.¹⁰ This kind of knowledge is obtained by couples who will marry by attending pre-marital education. It is where pre-marital education becomes an urgent need within the framework of implementing family law. The urgency of pre-marital education provides knowledge and skills that can be used in building relationships between husband and wife to reduce the occurrence of family conflicts. A survey conducted by Stanley showed that pre-marital education provided marital satisfaction while reducing conflict, thereby reducing divorce by 31%.¹¹

In order to prevent divorce, pre-marital education has become a significant concern. In fact, according to Ahmad Faisal, the rise of divorce in Indonesia became the forerunner to the birth of the *Badan Penasihatian Pembinaan dan Pelestarian Perkawinan* (Marriage Advisory and Preservation Agency; BP4), which provides explicitly pre-marital education services.¹² The tradition of pre-marital education in Malaysia also continues to be strengthened. Although it is well known that each region has different regional specific laws and regulations, they have similarities that represent the 1984 Islamic Family Law (Wilayah Fellowship) Deed.¹³ Meanwhile, in Australia, Pre-marital education is contained

⁸ David H. Olson, John DeFrain, and Linda Skogrand, *Marriages and Families: Intimacy, Diversity, and Strengths* (CA: Mountain View, 2006), 35.

⁹ Adinda Azka Nur Fathya and Asep Ramdhan, "Pendidikan Pra Nikah sebagai Solusi Penanggulangan Kasus Perceraian Melalui Perancangan Aplikasi," *Jurnal Rekamakta*, 2018, 38, <http://eprints.itenas.ac.id/113/>.

¹⁰ M. Shabri Hakim, "Sekolah Pra-Nikah Lembaga Keagamaan Islam dan Prospek Penekanan Tingkat Perceraian di Kota Yogyakarta" (Universitas Islam Negeri Sunan Kalijaga Yogyakarta, 2016), 3, <https://digilib.uin-suka.ac.id/23116/>.

¹¹ Scott M. Stanley et al, "Premarital Education, Marital Quality, and Marital Stability: Findings from a Large, Random Household Survey," *Journal of Family Psychology* 20, no. 1 (March 2006): 117-26, <https://doi.org/10.1037/0893-3200.20.1.117>.

¹² Ahmad Faisal, "Efektivitas BP4 dan Perannya dalam Memberikan Penataran atau Bimbingan pada Calon Pengantin (Studi Pada BP4 KUA Kecamatan Kembangan Kotamadya Jakarta Barat)" (Universitas Islam Negeri Syarif Hidayatullah, 2007), 17, https://repository.uinjkt.ac.id/dspace/bitstream/123456789/18879/1/AHMAD_FAISAL-FSH.pdf.

¹³ Nabelia Naili and Kemal Riza, *Hukum Keluarga Islam Asia Tenggara Kontemporer* (Surabaya: Lembaga Penelitian IAIN Surabaya, 2013), 12-13.

in the Marriage Law of 1961, integrated with family counseling and post-marital family dispute resolution.

Pre-marital education in this framework shows the absolute urgency in caring for the marital relationship. Therefore, this study focuses on the basic concepts of pre-marital education and the regulation of pre-marital education in Indonesia and Malaysia. Many studies have been on current family law in various countries, only on studies in Muslim countries. For example, a study conducted by M. Atho Mudzhar focuses on comparing modern family law laws with classical *fiqh* that occurs in Muslim countries.¹⁴ Muhammad Amin Suma, in his study, gives almost the same explanation and tends to strengthen the study conducted by Mudzhar, only that his study focuses on Muslim countries in the Middle East and Asia.¹⁵

In addition, Khoiruddin Nasution has also conducted more integrative studies. He not only focuses on studying family law in Muslim countries but also integrates and compares it with Islamic civil law in Indonesia.¹⁶ In contrast, Miftahul Huda provides a comprehensive explanation of family law in Muslim countries using a historical approach. In his study, Huda explains the applicable laws and narrates how the process of accommodation of norms and values occurs in the formation of family law laws in Muslim countries.¹⁷ However, in some of these studies, the explanation of pre-marital education is not included. The study examines more general themes in marriage, such as marriage requirements, guardianship, the age limit for marriage, polygamy, to divorce.

A study conducted by Nabila Naili and Kemal Riza¹⁸ examines explicitly the dynamics of family law in Malaysia. This study describes the historicization process of forming family law laws and the dynamics after their stipulation and implementation. Further, this study does not explain the regulation and implementation of pre-marital education in Malaysia. However, the study presents common themes.

¹⁴ M. Atho Mudzhar, *Hukum Keluarga di Dunia Islam Modern* (Ciputat: Ciputat Press, 1999).

¹⁵ Muhammad Amin Suma, *Hukum Keluarga Islam di Dunia Islam* (Jakarta: RajaGrafindo Persada, 2005).

¹⁶ Khoiruddin Nasution, *Hukum Perdata Islam Indonesia dan Perbandingan Hukum Perkawinan di Dunia Muslim* (Yogyakarta: Akademia & Tazzafa, 2009).

¹⁷ Miftahul Huda, *Hukum Keluarga: Potret Keragaman Perundang-Undangan di Negara-Negara Muslim Modern* (Malang: Setara Press, 2018).

¹⁸ Naili and Riza, *Hukum Keluarga Islam Asia Tenggara Kontemporer*.

The study of pre-marital education in Indonesia has received attention several times. Ahmad Faisal conducted a study focusing on assessing the effectiveness of BP4 in conducting pre-marital education as a basis for preventing divorce. The study was limited to the focus area of East Jakarta.¹⁹ Lukman Hakim Afrinaldi and Agus Noobani also conducted a similar study.²⁰ In addition, M. Shabri Hakim has also conducted a study on institutions that provide pre-marital education services outside of BP4.²¹ The lack of studies on pre-marital education is an academic gap to give more attention. In this case, the study of family law on pre-marital education must continue to be carried out to provide new knowledge and discourse.

As legal research, this research uses a normative approach by studying the science of legislation (statutory approach), namely by conducting a study of related laws and regulations.²² In addition, the author also uses a comparative approach. According to Gutteridge, as quoted by Peter Mahmud Marzuki, comparative law, with its descriptive nature, aims to obtain information, and comparative applied law has a specific target. This study also uses a sociological approach to analyze community responses.²³ In addition, as a study in several regions (Indonesia and Malaysia), an ethnographic approach was also used. The main concern in conducting ethnographic research is society's way of life.²⁴ The purpose of ethnography is to describe a society. The description is carried out in-depth (thick description) based on the observations involved (observatory participant)

¹⁹ Faisal, "Efektivitas BP4 dan Perannya dalam Memberikan Penataran atau Bimbingan pada Calon Pengantin (Studi Pada BP4 KUA Kecamatan Kembangan Kotamadya Jakarta Barat)."

²⁰ Lukman Hakim, "Peran BP4 terhadap Efektivitas Kursus Pra-Nikah dalam Mengurangi Terjadinya Perceraian (Studi Pada BP4 Kecamatan Parung Kabupaten Bogor)" (Universitas Islam Negeri Syarif Hidayatullah, 2014), [https://repository.uinjkt.ac.id/dspace/bitstream/123456789/24944/1/Lukman Khakim.FSH.pdf](https://repository.uinjkt.ac.id/dspace/bitstream/123456789/24944/1/Lukman%20Khakim.FSH.pdf); Afrinaldi Afrinaldi and Sesmiarni. Zulfani, "Perempuan Menggugat: Kursus Pra-Nikah sebuah Upaya Preventif di BP4 Kota Pariaman," *Kafâ'ah: Journal of Gender Studies* 6, no. 1 (August 31, 2016): 73–92, <https://doi.org/10.15548/JKV6I1.103>; M Agus Noorbani, "Pelayanan Kursus Pranikah di KUA Kecamatan Cicantayan Kabupaten Sukabumi," *Penamas Journal of Religious and Societies* 28, no. 2 (2015), <http://blajakarta.kemenag.go.id/journal/index.php/penamas/article/view/96>.

²¹ Hakim, "Sekolah Pra-Nikah Lembaga Keagamaan Islam dan Prospek Penekanan Tingkat Perceraian di Kota Yogyakarta."

²² Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2016), 133.

²³ Marzuki, 172.

²⁴ James Spradley, *Metode Etnografi* (Yogyakarta: Tiara Wacana, 1997), 12.

Concept of Pre-Marriage Program and Formal Legal Consultation

The formation of a happy and eternal family is the goal of marriage. These provisions are contained in Law no. 1 of 1974 concerning marriage. The Compilation of Islamic Law calls this goal a powerful bond (*mīthāqan galīzan*) and worship. One way to realize the goal of marriage is through a pre-marital education process carried out by state institutions, namely the Office of Religious Affairs in Indonesia and the *Jabatan Kemajuan Islam Malaysia* (Malaysian Islamic Progress Position; JAKIM). Pre-marital education is a form of formal counseling carried out by every citizen who is about to get married so that each husband and wife know and understand their rights and obligations. To create a household full of peace, mutual understanding, and mutual acceptance of each other's strengths and weaknesses using specific techniques.²⁵

Pre-marital counseling has emerged for a long time in various developing countries. Kautsar Khamis said that the idea of pre-marital counseling had been formally developed in various developing countries. He further explained the meaning of pre-marital counseling, a preventive effort to help someone understand the marital relationship, the responsibilities that come with it, and their partner's expectations.²⁶

H.M. Arifin explained that pre-marital education is the assistance given to individuals or groups in overcoming or avoiding difficulties and problems in married life in the future.²⁷ In Indonesia, pre-marital education is known as pre-marital courses. The pre-marital course is described in the Regulation of the Director of Guidance of the Islamic Society No. DJ.II/542 of 2013 concerning Guidelines for the Implementation of Pre-Marriage Courses in Chapter I Article 1 paragraph (1) that pre-marital courses provide knowledge, understanding, skills, and raise awareness to adolescents of marriageable age about domestic and family life.

There are two types of pre-marital counseling. First, in the form of education with an open nature. Technically, a marriage counselor meets with a group of

²⁵ Andi Mappiare, *Konseling dan Psikoterapi* (Jakarta: RajaGrafindo Persada, 2006), 24.

²⁶ Kautsar Khamis, *Sustaining Muslim Marriage: The Role of Premarital Counseling in the Nima Mamobi Muslim Communities* (Ghana: University of Ghana, 2013), 8–12.

²⁷ H.M. Arifin, *Pokok-Pokok Pikiran Tentang Bimbingan Penyuluhan Islam* (Jakarta: Bulan Bintang, 1997), 9.

people to discuss marital issues. The first type is held *en masse* and is open to men and women who have reached the age of marriage. Second, it is very private. The technique only covers the counselor and the bride-to-be. This second type is more private, involving only counselors and couples about to get married. Potential partners can discuss more specific issues, such as communication, parenting styles, family roles, how to deal with conflict in the family, sex life, financial planning, and so on.²⁸

Pre-marital education programs provide a means, especially for couples, to discuss parenting issues, financial planning in a family, making decisions, and managing conflicts that arise with each other.²⁹ It is a fundamental reason for the implementation of pre-marital education. A harmonious and prosperous married life will give birth to a happy family. In Adi Fahrudin's view, the family plays a vital role in developing welfare, nurturing, and primary education for family members, in which the family institution bears all social culture, responsibility for child care and upbringing.³⁰

Implementing pre-marital education can be seen in the minimum number of divorces. It is in line with the purpose of pre-marital education, namely, to prevent divorce. It is where the concept of legal validity and effectiveness theory exists; as Hans Kelsen argues, there must be reciprocity between validity and effectiveness. In Munir Fuady's view, the validity of a law is classified as *das sollen* (which should be), while the effectiveness of a law is a fact (*das sein*).³¹

The validity of pre-marital education is the acceptance and implementation of pre-marital education by the community or prospective bridal couples. At the same time, effectiveness refers to the decline in the divorce rate, so indirectly, pre-marital education is a preventive measure to prevent divorce. It is also like Friedmann's view of the relationship between law and attitude. According to him, in order for the law to influence the attitude of action or human behavior, it is necessary to create conditions that must exist, including that the law must be

²⁸ Khamis, *Sustaining Muslim Marriage: The Role of Premarital Counseling in the Nima Mamobi Muslim Communities*, 39–40.

²⁹ Noorbani, "Pelayanan Kursus Pranikah di KUA Kecamatan Cicantayan Kabupaten Sukabumi," 282.

³⁰ Adi Fahrudin, "Keberfungsian Keluarga: Konsep dan Indikator Pengukuran dalam Penelitian," *Sosio Informa: Kajian Permasalahan Sosial dan Usaha Kesejahteraan Sosial* 17, no. 2 (August 24, 2012): 77, <https://doi.org/10.33007/INF.V17I2.94>.

³¹ Munir Fuady, *Teori-Teori Besar dalam Hukum* (Jakarta: Kencana, 2013), 116.

able to be communicated.³² Communication is a process of delivering and receiving symbols that contain specific meanings. The purpose of communication is to create a shared understanding to change thoughts, attitudes, or behavior.

In this context, the change in attitude in question is the decline in the divorce rate among families after receiving debriefing in pre-marital education. It is where the achievement of pre-marital education can be seen through the legal theory above. Is it valid and bringing effectiveness, or is it just valid and effective so there is no reciprocity between law and attitude?

Basic Rules of Marriage in Indonesia and Malaysia

Marriage in Indonesia is legally regulated in Law no. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage and Instruction of the President of the Republic of Indonesia Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law. Both regulate issues related to marriage, including inter-religious marriages. Article 2 Paragraph (1) of the Marriage Law states that marriage is legal if carried out according to each religion and belief law. There is no marriage outside the law of each religion and belief in this formulation. The same thing is explained in several articles in Presidential Instruction No. 1 of 1991 concerning Islamic Law's Compilation dissemination.

Article 2 of the Compilation of Islamic Law states that marriage is a firm contract to obey Allah's commands, and carrying it out is worship. The marriage bond is marked by a firm contract (agreement) (*mithāqan ghalīzan*). The marriage contract is an agreement that involves God, so it is not just an ordinary agreement. The marriage contract is a special agreement because it justifies sexual relations between a man and a woman previously prohibited.

Law in Indonesia stipulates that every marriage must be legally based on religious law; it must also be registered in a legal institution, namely the Office of Religious Affairs for Muslims and the Civil Registry for non-Muslims. Marriage registration is regulated in Article 2 of the Marriage Law, which states that every marriage is recorded according to the applicable laws and regulations. The provisions in the article explain that every marriage must be recorded according to the applicable laws and regulations. If Article 2 of the Marriage Law is linked

³² Fuady, 119.

with other provisions, it can be considered that marriage registration is an integral part that also determines the validity of a marriage.

Meanwhile, another opinion states that marriage registration is not a legal requirement for marriage but only a condition for marriage administration's completeness. Marriage is declared valid if carried out according to both parties' religious procedures and beliefs. Marriage registration does not determine whether a marriage is legal or not. It is only an administrative requirement stating that the marriage event did exist and took place. With it, marriage becomes apparent, both for the person concerned and the other parties. A marriage that is not recorded in the Marriage Certificate is considered non-existent by the state and does not receive legal certainty—likewise, all the consequences arising from marriages that are not recorded.³³

The reality is that many Indonesian citizens do not register their marriages. These marriages that are carried out only fulfill religious demands without fulfilling administrative demands. One of the reasons is the indecisiveness of the law on the registration of marriages. As a result, their marriage does not get a marriage certificate. Consequently, the husband or wife cannot take civil legal actions related to their household. The state recognizes the children they birth to as illegitimate children, so they only have civil relations with the mother and family. The implication is that if their husband or biological father abandons a wife and child, they cannot file lawsuits, both for the fulfillment of economic rights and joint property. Recording a marriage provides certainty and protection for the parties to the marriage. It provides authentic evidence about the occurrence of marriage, and the parties can defend the marriage to anyone before the law. Conversely, a not registered marriage does not have legal force and evidence as a marriage.³⁴

Another problem is related to the minimum age limit for marriage. This regulation came into effect after the Government and the DPR approved the revision of Law Number 1 of 1974 in 2019. The law changes the age limit for

³³ Rachmadi Usman, "Makna Pencatatan Perkawinan dalam Peraturan Perundang-Undangan Perkawinan di Indonesia," *Jurnal Legislasi Indonesia* 14, no. 3 (May 3, 2017): 255–73, <https://doi.org/10.54629/JLI.V14I3.80>; Novita Lestari, "Problematisa Hukum Perkawinan di Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan* 4, no. 1 (July 7, 2017): 43–52, <https://doi.org/10.29300/MZN.V4I1.1009>.

³⁴ Maskur Rosyid, "Kriminalisasi Terhadap Hukum Keluarga di Dunia Muslim," *Al Amin: Jurnal Kajian Ilmu dan Budaya Islam* 3, no. 1 (March 24, 2020): 175–93, <https://doi.org/10.36670/ALAMIN.V3I1.48>.

women's marriage from 16 to 19 years. According to the Constitutional Court of the Republic of Indonesia, this change is necessary because there are regulations regarding the difference in the minimum age limit for marriage between men and women, which can result in discrimination related to the right to form a family and protection of children. Changes in the minimum age limit for marriage in Indonesia were made to suppress such discrimination.³⁵

As the legal basis of marriage in Malaysia, it can generally be divided into two categories. First, the alliance's territory adheres to the Deed of the Islamic Family Law of 1984 or so-called (deed 303). Countries that adhere to this deed include: Selangor, Negeri Sembilan, Pulau Pinang, Pahang, Perlis, Terengganu, Sarawak, and Sabah. However, there are slight differences and similarities with the 1984 Federal Territory Islamic Family Law Deed. The difference lies in the composition of the section, the form of change, and the law. Countries that adhere to the deed include Kelantan, Johor, Melaka, and Kedah. Second, Ordinance 43 of the 2001 Sarawak State Islamic Family Law adheres to the 1984 Deed of the Islamic Family Law (Federal territories) or referred to as (deed 303).

The regulation on the age of marriage in Malaysia is by the Sarawak State Ordinance 43 of 2001, namely men aged 18 years and women 16 years, unless there is permission from a sharia judge who allows marriage under this age.³⁶ Like the civil law legal system that affects the jurisdiction of a regulation, Malaysia, which has a standard law legal system, makes a regulation unable to apply generally to Malaysian citizens. The standard law system in Malaysia has the effect of enacting a regulation in a state that only applies to people in that state. It means that each state will have its regulations and the authority to prosecute them. The Sarawak Islamic Family Law Ordinance Number 43 of 2001 only has legal consequences in the Sarawak region. The minimum limit for men and women to be allowed to marry in Sarawak is different from Indonesia.

³⁵ Amelia Khairunisa and Atiek Winanti, "Batasan Usia Dewasa dalam Melaksanakan Perkawinan Studi Undang-Undang Nomor 16 Tahun 2019.," *Justitia: Jurnal Ilmu Hukum dan Humaniora* 8, no. 4 (September 1, 2021): 774–84, <https://doi.org/10.31604/justitia.v8i4.774-784>.

³⁶ Age Surya Dwipa Chandra, "Studi Komparatif tentang Batas Usia Perkawinan (Analisis Terhadap Undang Undang Perkawinan Indonesia, Malaysia, Brunei Darussalam)" (Universitas Islam Negeri Raden Intan, 2020), <http://repository.radenintan.ac.id/11195/>; Ihya' Tsimaar Arih, "Studi Komparasi Batas Usia Perkawinan antara Hukum Indonesia (UU 16 Tahun 2019 Perubahan UU 1 Tahun 1974 Tentang Perkawinan) dan Hukum Sarawak" (Universitas Muhammadiyah Surakarta, 2022), <http://eprints.ums.ac.id/97932/>.

The minimum limit for women in Sarawak to be legalized for marriage is lower than for men. In the sense that women first experience a process of maturation and self-maturation so that they can balance out men whose marriage age is above them.

Pre-Marriage Programs in Indonesia and Malaysia: Legal Norms and Concepts

In Indonesia, pre-marital education is an approach that is carried out formally to prepare prospective husband and wife to know their rights and obligations in the household before getting married. This activity aims to increase the knowledge of prospective spouses about a happy, loving, and peaceful household life and reduce the divorce rate. The establishment of pre-marital courses is motivated by regulations born in 2009 and 2013. The regulations are as follows:

1. Regulation of the Director-General of Islamic Community Guidance No. DI.II/491 of 2009 concerning the Prospective Wedding Course,
2. Regulation of the Director-General of Islamic Community Guidance No.: DJ.II/542 of 2013 concerning Guidelines for the Implementation of Pre-Marriage Courses,
3. Regulation of the Minister of Religion No. 46 of 2014 concerning Management of Non-Tax State Revenue on Marriage Fees or Referrals Outside the District Office of Religious Affairs,
4. Regulation of the Minister of Religion No. 12 of 2016 concerning Management of Non-Tax State Revenue on Marriage Fees or Referrals Outside the District Office of Religious Affairs,
5. Regulation of the Minister of Religion No. 37 of 2016 concerning Amendments to the Regulation of the Minister of Religion No. 12 of 2016 concerning Management of Non-Tax State Revenue on Marriage Fees or Referrals Outside the District Office of Religious Affairs,
6. Decision of the Director-General of Islamic Community Guidance No. DJ.II/748 of 2014 concerning Technical Guidelines for the Management of Non-Tax State Revenue on Marriage Fees or Referrals Outside the District Office of Religious Affairs,
7. Decision of the Director-General of Islamic Community Guidance No. DJ.III/600 of 2016 concerning Guidelines for the Implementation of

Management of Non-Tax State Revenue on Marriage Fees or Referrals Outside the District Office of Religious Affairs.

The subject matter in the first and second regulations contains the Marriage Course. Meanwhile, other than that, Ministerial Regulation Number 3-5 and two Director General Decrees Number 6-7 regulate the funding of marriage courses and subjects entitled to carry out marriage courses.

The history of the emergence of this regulation is motivated by the average number of marriages in Indonesia, which reaches two million pairs per year. The number of married couples certainly affects the quality of a nation. Suppose the character that grows into a good character will affect the good of society and vice versa. Another reason is the increasing number of divorces and domestic violence. This matter has to deal with the lack of knowledge of the prospective bride and groom about domestic life and the purpose of marriage. Based on these two reasons, the implementation of pre-marital courses is expected to be a solution to create a harmonious family and minimize divorce and domestic violence.

The implementation of the pre-wedding course is intended as a debriefing for pre-wedding course participants, namely teenagers of marriageable age and prospective brides.³⁷ The pre-wedding course is carried out with 24 hours of lessons for three days or is held in several meetings with the same lesson hours. This meeting can be adjusted according to the opportunities that the participants have. In contrast to the pre-wedding course, the prospective bride and groom courses are held for ten days after the bride and groom register at the sub-district KUA. Thus, the pre-marital course has a broader scope and time to provide opportunities for all marriage-age teenagers to take it.³⁸

³⁷ Zakyyah Iskandar, "Peran Kursus Pra Nikah dalam Mempersiapkan Pasangan Suami-Istri Menuju Keluarga Sakinah," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 10, no. 1 (December 21, 2017): 85–98, <https://doi.org/10.14421/AHWAL.2017.10107>; Radhiya Bustan, "Persepsi Dewasa Awal Mengenai Kursus Pranikah," *Jurnal Al-Azhar Indonesia Seri Humaniora* 3, no. 1 (December 20, 2015): 82–95, <https://doi.org/10.36722/SH.V3I1.199>; Lutfi Kusuma Dewi, "Penerapan Nilai-Nilai Pendidikan Islam dalam Pelaksanaan Kursus Pra Nikah untuk Mewujudkan Keluarga Sakinah," *Ta'dibuna: Jurnal Pendidikan Agama Islam* 2, no. 1 (May 21, 2019): 33–50, <https://doi.org/10.30659/JPAI.2.1.33-50>.

³⁸ Jamil Jamil, Nova Effenty, and Muhammad Muhammad, "Implikasi Kursus Pra Nikah dalam Membentuk Keluarga Sakinah di Kota Gorontalo," *As-Syams: Journal Hukum Islam* 1, no. 2 (2020): 152–63, <https://e-journal.iaingorontalo.ac.id/index.php/assyams/article/view/316/198>.

Based on article 4 paragraph (1) of the Director-General of Society Regulations 2011 concerning Pre-Marriage Courses, pre-marital courses are organized by the BP4 or can be held by other institutions that have received accreditation from the Ministry of Religion. With this regulation, pre-marital course providers can be carried out by bodies or institutions outside government agencies. The condition is that the institution or private body must meet the requirements set by the Government. The Ministry of Religion is responsible for guiding the organizing body or institution so that the debriefing can be directed and successful as expected. With the guidance carried out by the Ministry of Religion for private institutions that want to organize pre-marital courses, family development no longer relies on the Government's unilateral responsibility. However, it becomes a joint responsibility of the community to improve family's quality by reducing divorce rates and family violence.

The requirements for pre-wedding course organizers are accreditation from the Ministry of Religion through a process of assessment, visitation, and supervision by the provisions set by the Director-General of Islamic Community Guidance. Pre-marital course accreditation has three levels, namely:

1. The main level accreditation is under the authority of the Directorate General of Islamic Community Guidance, specifically the Directorate of Islamic Religious Affairs and Sharia Guidance.
2. Provincial level accreditation under the authority of the Provincial Office of the Ministry of Religion is, more specifically, the Islamic Religious Affairs Division.
3. Accreditation at the district/city level is under the District/City Ministry of Religion's authority, specifically the Head of Islamic Religious Affairs involving the District Office of Religious Affairs.

The implementing agency or institution submits the mechanism for proposing accreditation to the Ministry of Religion by the level of the organization. Institutions at the mid-level submit accreditation proposals to the Director-General of Islamic Community Guidance, more specifically to the Directorate of Islamic Religious Affairs. Meanwhile, at the provincial level, proposals can be submitted to the Regional Office of the Ministry of Religion, more specifically to the Head of Islamic Affairs. Meanwhile, proposals can be submitted to the Head at the district or city and sub-district levels. District or City Ministry of Religion.

Pre-wedding course organizers will receive accreditation when their proposal meets the requirements. The requirements are:

1. Applications or proposals for accreditation from agencies or institutions that wish to organize pre-marital courses.
2. Have teaching staff with academic and technical competence as evidenced by a diploma.
3. Have a curriculum and teaching materials for pre-marital courses by the standards set by the Ministry of Religion.
4. Have adequate pre-facilities:
 - a. Office/study/course space.
 - b. Media/learning aids.
 - c. Computer/typewriter.
 - d. Register for pre-marriage course participants.
 - e. Agency nameplate and announcements.
 - f. Financial management book.
 - g. Implementation schedule.
 - h. File staffing/teaching staff.

Accreditation is valid for two years and can be extended for another two years with a new application. During this period, the Government is obliged to supervise the process of pre-marital course activities. If there are deviations within these two years, the Government has the right to impose sanctions in the form of warnings to revocation of operating permits. The supervisory officers are the Directorate General of Community Guidance, the Directorate of Islamic Religious Affairs and Sharia Guidance for supervision at the central level, the Provincial Ministry of Religion, in this case, the Islamic Religious Affairs Division for supervision at the provincial level, and the Regency/City Ministry of Religion Offices, in this case, this is the Head of Islamic Religious Affairs involving the District Office of Religious Affairs. Furthermore, the Head of Islamic Religious Affairs and the Sub-District Office of Islamic Affairs carry out inspections, administrative assessments, and field visits in their respective areas for supervision at the district/city level.

The materials for the pre-marital course participants are divided into three groups; base group, core group, and support group. While the course is carried out with four approaches; lectures, discussions, questions and answers, and

assignments.³⁹ Pre-marriage courses are carried out dynamically. It is adapted to the needs and conditions in the field. The minimum duration of implementation is 24 hours. Pre-marital course materials are provided by resource persons who are competent in their fields, namely marriage and family consultants, religious leaders, psychologists, and community leaders. In its learning, the Ministry of Religion provides a syllabus and modules to be used as a basis for pre-wedding course organizers. Pre-wedding course fees are sourced from the *Anggaran Pendapatan dan Belanja Negara* (State Budget; APBN), *Anggaran Pendapatan dan Belanja Daerah* (Local Government Budget; APBD), and other sources that are lawful and non-binding. In donations, government funds in APBN or APBD can be channeled to the organizers. Such assistance can be justified as long as it aims to improve the welfare and development of the people by applicable laws and regulations. In addition, it can also be obtained from the results of participant contributions or donations given by the community, which are lawful and non-binding and have a solid commitment to participate in helping and fostering families.

After attending the pre-marriage course, participants will receive a certificate of proof of graduation. The certificate is used as a requirement for completeness of marriage registration when registering at the District KUA. Unfortunately, the certificate is not an obligation that the bride and groom must own. It is only a suggestion that the bride and groom already have a basic knowledge of household and kinship, including; knowledge and understanding of the law of marriage, family, healthy reproduction, problem-solving, inculcation of faith values, piety, morality, worship guidance, and religious education in the family.⁴⁰ The shape, color, model, and size of the certificate from the organizing agency may vary based on their respective provisions. It can be handed over to the participants after registering by the Ministry of Religion.

Pre-marital education is essential for couples who want to carry out marriage. Its importance is seen when the mediation process carried out by the

³⁹ Muhammad Ridho, "Urgensi Bimbingan Pra Nikah terhadap Tingkat Perceraian," *JIGC (Journal of Islamic Guidance and Counseling)* 2, no. 1 (2018), <https://jigc.dakwah.uinjambi.ac.id/index.php/jigc/article/view/8>; Afrizal Afrizal, "Implementasi Kursus Pra Nikah dalam Mengurangi Angka Perceraian di KUA Pringsewu," *Ijtima'iyah: Jurnal Pengembangan Masyarakat Islam* 10, no. 1 (March 8, 2017): 97-120, <https://doi.org/10.24042/IJPMI.V10I1.2357>.

⁴⁰ Dirjen Bimas Islam dan Penyelenggaraan Haji Kementerian Agama, *Buku Pegangan Calon Pengantin* (Jakarta: Dirjen Bimas Islam dan Penyelenggaraan Haji Kementerian Agama, 2003), 17-263.

Religious Courts is often unsuccessful.⁴¹ This fact gives a negative impression to the Religious Courts. It is called a divorce ratification agency. In contrast, this institution has a vital role in restoring the unity of a happy household. Divorce is a severe problem because the integrity of the household is the principle of the nation's integrity. The Government thus has an important role to play in overcoming this problem. This urgency is seen in the Decree of the Directorate General of Islamic Community Guidance Number 379 of 2018 concerning Guidelines for Implementing Marriage Guidance for Bride and Groom Candidates. The decree states that serious efforts are needed to build a strong family through pre-marital education for prospective brides and young people of marriageable age.⁴²

Pre-marital education is a decisive step in suppressing divorce cases which continue to increase every year. Through guidance materials and a certain period, prospective bridal couples are provided with information that divorce is not an easy matter.⁴³ Conceptually, pre-marital courses attempt to minimize and suppress the divorce rate. Meanwhile, at the policy level, pre-marital education is a preventive regulation so that families in Indonesia are protected from the harmful effects caused by divorce. Even though it is considered a good policy, applying the ideals of exemplary policy implementation has not yet been seen at the execution level. It indicates that the pre-marital course has not been maximized in providing a good understanding of prospective married couples.⁴⁴

Pre-marital courses or certification regulation is a rule of the existing regulatory norms. Thus, this regulation can be applied to Muslims and non-Muslims. For example, pre-marital counseling is routinely carried out twice a year by GKKB Pontianak Congregation.⁴⁵ Meanwhile, at the level of

⁴¹ Abdul Jalil, "Implementasi Program Bimbingan Perkawinan Pranikah Bagi Calon Pengantin di KUA Kecamatan Cilandak Kota Jakarta Selatan," *Andragogi: Jurnal Diklat Teknis Pendidikan dan Keagamaan* 7, no. 2 (December 30, 2019): 189, <https://doi.org/10.36052/ANDRAGOGLV7I2.93>.

⁴² Jalil, 190.

⁴³ Deden Hidayat, "Regulasi Sertifikasi Pranikah Ditinjau dari Kaidah Masalah dan Mafsadat dalam Hukum Islam," *Istinbath: Jurnal Hukum* 17, no. 1 (2020): 84, <https://doi.org/10.32332/istinbath.v17i1.2239>.

⁴⁴ Hidayat, 87.

⁴⁵ Muhammad Lutfi Hakim, "Kursus Pra-Nikah: Konsep dan Implementasinya Studi Komparatif Antara BP4 KUA Kecamatan Pontianak Timur Dengan GKKB Jemaat Pontianak," *Al-Maslahah: Jurnal Ilmu Syariah* 13, no. 2 (October 1, 2017): 150, <https://doi.org/10.24260/ALMASLAHAH.V13I2.924>.

implementation, the mechanism for pre-marital courses may be different. The implementation of pre-marital courses from one KUA to another may vary. However, they still have one thing in common: they strive to create an eternal and happy family.⁴⁶

While in Malaysia, the implementation of pre-marriage courses is assisted by a board called the JAKIM. In this program, course participants are given a module to facilitate understanding of the material. The module used is called the *Modul Berpadu Kursus Praperkahwinan Islam* (Integrated Module of Islamic Pre-Marriage Course; MBKPI), published by the JAKIM in 1996, and its implementation was mandatory in 1997. The material included in this module is visual slides, short videos, and the docu-drama *Lestari Kasih*. This course is one of the initiatives taken by the Government of Malaysia to provide early knowledge of marriage to couples who are about to get married.⁴⁷

Pre-Marriage Courses in Malaysia have been implemented since the 1990s. Initially, there was no standardized module for every State Islamic Religious Office in Malaysia. This course is an effort of the Malaysian Government to provide prior knowledge about households to couples about to get married. He hopes to give birth to a happy family. The course material is about managing husband-wife and family relationships, health education, and reasonable communication procedures.

In 1996, the MBKPI was prepared by JAKIM and required to be implemented in 1997 throughout Malaysia as a synchronization of the pre-marital course module. In 2002, JAKIM published the first update of the course module. In 2008 the second module was repaired and completed in 2012. The addition of material in the module is graphic content, short videos, and the drama-documentary *Lestari Kasih*.⁴⁸

Pre-marital courses held in Malaysia are adjusted to the provisions of the respective laws and regulations. As stated in the 2003 Appendix to the Islamic

⁴⁶ Hidayat, "Regulasi Sertifikasi Pranikah Ditinjau dari Kaidah Masalah dan Mafsadat dalam Hukum Islam," 89.

⁴⁷ M.S Abdullah, *Modul Bersepadu Kursus Pra Perkahwinan Islam (MBKPI)* (Malaysia: Jabatan Kemajuan Islam Malaysia (JAKIM), 2002); Jamaluddin Faisal, Ahmad Tholabi Kharlie, and Achmad Cholil, "Pre-Marriage Course in Indonesia and Malaysia," *Ahkam: Jurnal Ilmu Syariah* 20, no. 1 (June 30, 2020): 97-114, <https://doi.org/10.15408/AJIS.V20I1.16188>.

⁴⁸ Jabatan Kemajuan Islam Malaysia, *Garis Panduan Pelaksanaan Kursus Pra Perkahwinan Islam Berdasarkan Modul Bersepadu Kursus Pra Perkahwinan Islam (MBKPI)* (Selangor: Mihis Grafik, 2016), 22.

Family Law (Negeri Sembilan) Part II on Marriage, Section 16 regarding Applications for Marriage Truth, if you want to hold a marriage, you are required to take a pre-marital course. The duration of the pre-marital course, which is held in Malaysia, is 12 hours, and the participants are charged 80,000 per person.

The pre-marital course module is one of the initiatives of the Kingdom of Malaysia to provide knowledge about marriage to couples who are about to get married. The JAKIM reviews the module every five years. The module is used and implemented by all State Islamic Religious Affairs Offices also course organizers. The course modules contain 11 titles, are those:⁴⁹ 1) Faith, 2) Worship, 3) Morals, 4) Marriage and the Procedure, 5) Husband and wife communication, 6) Relationships in the family, 7) Financial and time management, 8) Health and family management, 9) Stress and conflict management, 10) Mediation services at the State Islamic Religious Office, 11) Dissolution of marriage.

In addition to the modules that the Malaysian Islamic Progress Department has set, the implementation of Islamic pre-marital courses also uses the book "*Memasuki Gerbang Perkawinan*." The Malaysian Islamic Progress Department has the right to print, distribute, and appoint other parties to print and distribute the book. Technically, this bride-to-be course runs for two consecutive days. If participants complete the course, they will be awarded a certificate. This certificate has no time limit and can be used in every state in Malaysia.

Conclusion

In Indonesia, the pre-marital special is based on the Regulation of the Director-General of Islamic Community Guidance No. DI.II/491 of 2009 concerning the Prospective Marriage Course, Regulation of the Director-General of Islamic Community Guidance No.: DJ.II/542 of 2013, concerning Guidelines for the Implementation of Pre-Marriage Courses, Regulation of the Minister of Religion No. 46 of 2014 concerning Management of Non-Tax State Revenue for Marriage or Referral Fees outside the District Office of Religious Affairs, Minister of Religion Regulation No. 12 of 2016 concerning Revenue Management. Pre-marital courses can be carried out by the Ministry of Religion or private institutions that have obtained permission from the Ministry of Religion. In

⁴⁹ Jabatan Kemajuan Islam Malaysia, 23.

addition to granting permits, the Ministry of Religion is also responsible for guiding the implementing agencies to be directed and successful. The materials provided include marriage law, family, healthy reproduction, problem-solving, inculcation of faith values, piety, morality, worship guidance, and religious education in the family. Certificates will be given to participants who have attended pre-marital education, although pre-nuptial certificates have not yet become an obligation when registering for marriage.

Meanwhile, in Malaysia, the provisions for pre-marital courses are contained, for example, in the 2003 Enforcement 11 of the 2003 Islamic Family Law (Negeri Sembilan) 2003 Part II Marriage Section 16 concerning Applications for Marriage Truth. The provision states that a marriage can only occur when the bride and groom have attended a pre-marital course. Proof of participation of the prospective bride and groom is a pre-marital course certificate and an HIV-free certificate. The implementation is carried out by Regional Religious Administration Officers (formerly called *Kadi*). The Integrated Islamic Pre-Marriage Course Module guides this course activity.

The similarities between pre-marital education between Indonesia and Malaysia are that they are both regulated by the state (there are special regulations). The goal is to prevent divorce because the material presented contains the rights and obligations of husband and wife in the household. At the same time, the difference lies in the status of the pre-marital course. If the pre-marital course is only an appeal in Indonesia, then in Malaysia, the pre-marital course is a mandatory requirement for a prospective bride to get married. Indonesia has not yet imposed sanctions on prospective brides who do not take pre-marital courses. Meanwhile, Malaysia has gone a step further by imposing sanctions for candidates who do not attend pre-marital education and cannot get married.

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