

MARRIAGE AND DIVORCE AMONG MUSLIM REFUGEES UNDER SHARIAH LAW IN MALAYSIA AND OTHER MUSLIM REFUGEE HOST COUNTRIES: A SCOPING REVIEW FOCUSING ON EVIDENTIARY LAW AND PROCEDURES

PERKAHWINAN DAN PERCERAIAN DI KALANGAN PELARIAN MUSLIM MENGIKUT UNDANG-UNDANG SYARIAH MALAYSIA DAN NEGARA-NEGARA MUSLIM: KAJIAN SKOP UNDANG-UNDANG PEMBUKTIAN DAN PROSEDUR

^{i,*} Tasneem Rahmatullah, ⁱⁱ Rodziana Mohamed Razali, ⁱⁱⁱ Zulfaqar Mamat & ^{iv} Wan Abdul Fattah Wan Ismail

^{ii iii iv} Fakulti Syariah dan Undang-Undang, Universiti Sains Islam Malaysia, 71800 Nilai, Negeri Sembilan, Malaysia.

*(Corresponding author) e-mail: tasneemrahmatullah@gmail.com

ABSTRACT

Refugees are granted rights and protection in Islamic law, in addition to international treaties and declarations that bind a particular host country. Since Malaysia is not a signatory to any international convention on refugees, such as the 1951 Refugee Convention or the 1967 Protocol, it has been harboring refugees for many years without any rules or regulations for their protection. The Malaysian Muslim refugee populations are afflicted in many negative ways by the lack of regulations of their marriage and divorce affairs in Malaysia. The administration of Muslim refugees in Malaysia must therefore be reviewed in light of Islamic family law, values, and teachings since Malaysia is a state that upholds Shariah law. The objective of this study is to conduct a scoping exercise into the laws and procedures relating to the administration of marriages and divorces of Muslim refugees in Malaysia and compares them with other laws and procedures in Muslim refugee host countries like Jordan, Turkey and the Kingdom of Saudi Arabia. The focus of the scoping exercise is to investigate gaps and good practices in relation to substantive and procedural issues, particularly in the context of evidentiary proof of marriages and divorces of refugees and the associated implications of such gaps and good practices. This scoping study adopts a qualitative approach using the desk review methodology. The results of this scoping study will be presented together with suitable recommendations for improvements to be made in the area of the management of marriages and divorces of refugees in Malaysia.

Keywords: *Muslim refugees, Islamic family law, evidentiary proof, marriage and divorce, Sharia courts*

Introduction

Malaysia is a member state of the Organization of Islamic Conference (OIC) (Tasneem Rahmatullah et al., 2022). According to the United Nation High Commissioner for Refugees (UNHCR), Malaysia currently hosts 182,820 refugees in which majority of them constitutes the Rohingya. Among other OIC's member states hosting high numbers of Muslim refugees include Jordan, Turkey and Saudi Arabia. Notwithstanding the modest number of refugees, Saudi Arabia was selected as a reference for best practices in this study since Shariah law is the primary legal system there (Esmaeili, 2009, p. 18). Refugees' legal status in Jordan and Saudi Arabia are not recognized as neither country were signatory to the 1951 Refugee Convention or the 1967 Protocol. On the other hand, Turkey fully recognizes the legal status of refugees since it is a signatory to and obliged by the 1967 Protocol and the 1951 Refugee Convention (ESCWA, 2019).

In Malaysia where refugees are not concentrated in camps, they predominantly reside in urban spaces in states such as the Federal Territory, Selangor and Pulau Pinang (Munir-Asen, 2018). Depending on the circumstances those migrants were in, Malaysia's approach in handling them changed throughout time. Malaysia nevertheless made every effort to provide the best care possible. For instance, Malaysia provided the opportunity for the Bosnian refugee population to receive a quality education. The Vietnamese refugees, also referred to as the "Boat People," were temporarily residing on the Malaysian island of Pulau Bidong (Nur Syazwani Muzafarkamal & Ishtiaq Hossain, 2019).

While there are many opportunities in these states, the existing legislation framework hardly provides any protection to refugees who are mostly without valid documents or employment rights. In particular, refugees fleeing persecution have been classified as 'illegal immigrants' under Malaysian law (Mahaseth & Banusekar, 2022; Munir-Asen, 2018; Tasneem Rahmatullah et al., 2022). Living in a country as refugees without any regulation to preserve their eligible rights put these communities in a more vulnerable position (Loganathan et al., 2022).

In addition to leaving Myanmar due to persecution, it is known that Rohingya are stateless as a result of the 1982 Burmese Citizenship Law (Southwick, 2014)(Gehlot, 2021). As a result of this acute prejudice and marginalization, the Rohingya lack any papers proving their identification and personal status, including their birth registration. This makes it extremely difficult for them to legally marry, record their children's births, and participate in other life events after starting a family in the states that are hosting them. Marriage and divorce management for refugees in Malaysia particularly the Rohingya were mostly regulated by community-based organizations (CBOs) (Azizah Kassim, 2015). The study does not address Muslim refugees other than the Rohingya due to the scarcity of literature on their marital management concerns, as their marriage was not supervised by any bodies or agencies.

Possession of documentation proving the marriage of one's parents is essential for realizing one's rights to birth registration and nationality. Article 16(1) of the 1948 Universal Declaration of Human Rights (UDHR), article 23(1) of the International Covenant on Civil and Political Rights (ICCPR), and article 1(1) of the 1962 Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages all clearly state that marriage and family formation are protected under international law. Furthermore, article 5 of the revised Cairo Declaration 1990 by the Organisation of OIC, provides on protection of the family and marriage. It must be emphasized that although the international treaties are not binding, domestic courts are not prohibited from adopting international laws in its practice (Rodziana Mohamed Razali & Zulfaqr Mamat, 2019a).

Noting that refugees particularly the Rohingyas have been staying in Malaysia which serves as a transit country for more than four (4) generations (Khalid, 2022, p. 58), this study attempts to probe into existing literature to investigate gaps and good practices in respect to substantive and procedural issues, particularly in the context of evidentiary verification of refugee marriages and divorces, and the ramifications of such gaps and good practices from three Islamic countries hosting significant number of refugees, Jordan, Turkey and Saudi Arabia.

Gaps in previous studies on the right of refugees to family formation in Malaysia

Azizah Kassim (2015) presents a brief overview of the Rohingya's socioeconomic and legal situation, explores their marriage patterns, and explains why many - particularly men - marry outside their ethnic group. It addressed the implications of exogamic marriage, particularly with foreign women in Malaysia, for the status, identity, and rights of the spouses and children involved (Azizah Kassim, 2015).

Equal Rights Trust (ERT) (2016) published a collection of research papers focusing on the obligations of the states to refugees and recommended Malaysia to improve access to marriage registration procedures (including Sharia law) because the Federal Constitution emphasize the importance of the marital status of parents for child's birth registration (ERT), 2016, p. 158,159). Courtney et. all (2019) examined patterns of Intimate Partner Abuse (IPA), in which the findings revealed child-marriage as the factor of IPA (Welton-Mitchell et al., 2019).

Rodziana Razali and Zulfaqar Mamat (2020) presents an account of the phenomena of the Rohingya refugees' and asylum seekers' mainly unregulated marriage institution via the lenses of legislation and policy implementation in numerous states in Peninsular Malaysia (Rodziana Mohamed Razali & Zulfaqar Mamat, 2020) Other article from the same authors discussed the lack of policy and regulatory framework in administration of Rohingya refugees including its repercussions from the legal and Sharia perspectives in Malaysia (Zulfaqar Mamat & Rodziana Mohamed Razali, 2020b). Adding perspectives to the previous study, Rodziana Mohamed Razali et. al (2022) analyzes the challenges to birth registration that these communities confront, notably during the COVID-19 epidemic, and investigates how digital technology may overcome or exacerbate these barriers. The findings show digitalization of birth registration without a secure and inclusive working environment, poses more dangers of exclusion than advantages to marginalized communities (Rodziana Mohamed Razali et al., 2022).

This is where the significance of this study's relevance and applicability come into play, as it attempts to address the gap by conducting a scoping analysis in substantive and procedural issues, with a focus on evidentiary proof in refugee marriage and divorce. This report outlines best practices in marriage and divorce rules for refugees from several nations and provide recommendations for existing issues.

Research methodology

One of the first methodological frameworks for performing a "scoping study" was published by Arksey and O'Malley (Hilary Arksey & Lisa O'Malley, 2005). This six-stage framework was proposed as a methodological guide, consisting of identifying the research question, searching for relevant studies, selecting studies, charting the data, collating, summarizing, and reporting the results, and consulting with stakeholders to inform or validate study findings.

Table 1 Overview of the Arksey and O'Malley methodological framework for conducting a scoping study

Arksey and O'Malley Framework Stage	Description
1: Identifying the research question	<p>The main research question raised in this study: <i>how does procedural gaps in Muslim refugee marriage and divorce regulations impact them particularly from the aspect of refugees' legal identity and Shariah legal rulings (ahkam)?</i></p> <p>This study seeks to address the gaps mentioned above and is further broken down into several sub-questions as follows,</p> <ul style="list-style-type: none"> • What is the legal status of refugees in Malaysia, Jordan, Turkey and Saudi Arabia?

	<ul style="list-style-type: none"> • What is the substantive and procedural issues (including evidentiary issues) involving refugees' marriage and divorce under Shariah law in the respective countries? • What is the impact of such gaps (substantive and procedural issues, particularly in the context of evidentiary proof) on Muslim refugees' on aspects of fundamental human rights and Shariah <i>ahkam</i> among Muslim refugees in family institution?
2: Identifying relevant studies	<p>To answer this study question, we conducted a comprehensive literature review, which allowed us to examine and understand the current body of literature. Literature was discovered using internet searches utilizing two databases:</p> <ul style="list-style-type: none"> (i) Google Scholar and (ii) Scopus. <p>The search approach included a number of important search phrases, and hits were screened using a set of inclusion criteria. Only 62 of the 42,225 relevant papers discovered from both databases were included and reviewed in this study.</p>
3: Study selection	<p>Study selection involves post hoc inclusion and exclusion criteria. These criteria are based on the specifics of the research question and on new familiarity with the subject matter through reading the studies.</p>
4: Charting the data	<p>A data-charting form is developed and used to extract data from each study. A 'narrative review' or 'descriptive analytical' method is used to extract contextual or process-oriented information from each study.</p>
5: Collating, summarizing, and reporting results	<p>An analytic framework or thematic construction is used to provide an overview of the breadth of the literature but not a synthesis. A numerical analysis of the extent and nature of studies using tables and charts is presented. A thematic analysis is then presented. This provides clarity and consistency when reporting results. Finally, the comparative analyses of procedural and evidentiary issues will be guided by legal and shariah frameworks in different countries.</p>
6: Consultation (optional)	<p>The restricted time span and high risk (eg: financial, security) involved in consultation process serves as an obstacle for researcher to complete this optional process. Thus, this process is carried out in a restricted manner (only through consultation with an expert in addressing stateless issues and expert in Islamic law).</p>

1. Definition and concept of refugee in international law and Islamic law

The definition of refugee is contained in the 1951 Convention on the Status of Refugees and the 1967 Protocol. Article 1 of this Convention provides for the definition of refugees. In short, refugees are those who cannot return to their country of origin due to fear of being oppressed because of race, religion, nationality, political views or particular social group skills. This declaration gives refugee legal status in which their rights are officially recognized. (UNHCR, 1979) The UNHCR is the sole agency specifically tasked with safeguarding refugees and resolving their predicament on a worldwide scale (OIC, 2006, para 10).

Refugees in Islam are captured through in the concept of migration (*hijrah*) in Islamic history and highlighted by the Prophet PBUH Muhammad ﷺ and his companions' *hijrah* from Mekkah to Yathrib/Madinah during the 7th century in 622 A.D which also marked the beginning of the Islamic calendar (OIC, 2006, para 2) (Islamic Relief Worldwide, 2012). The obligation on Islamic countries

(*Dar al-Islam*) to ensure protection of refugees are encapsulated in the concept of safety (*Aman*) to a protected person (*Musta'min*) (OIC, 2006, para 3)(Islamic Relief Worldwide, 2014)(Britannica, 2023).

In Islam, human rights are not only acknowledged but also completely safeguarded as a fundamental component of Islamic structures. Al-Isra verse 70 of the Qur'an clearly outlines this notion:

{وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ...}

And verily We have honoured We have preferred the Children of Adam above other creation ...(Al-Qur'an, 17:70)(Trans. Feras Hamza, 2021)

Mohammad Hasbi Ash Shiddieqy, an Indonesian *mufassir* classified honour (*karamah*) into three categories. A man's personal honour is protected in the first category, status of human equality is guaranteed in the second category, while the political rights are fully protected in the third category (Teungku Muhammad Hasbi Ash-Shiddieqy, 2000, p. 2349) (Muhammad Syahrial Razali Ibrahim, 2018, p. 524). A humanitarian declaration based on Islamic law and the teachings of the Qur'an and Sunnah was produced by Islamic countries participating in the Organization of the Islamic Conference on 5th August 1990. There are twenty-five articles in the declaration known as the Cairo Declaration (OIC, 1990). Although there is criticism by some traditional Islamic scholars and state bureaucrats (Mozaffari, 2020), the Cairo Declaration is paving its way through revisions and amendments to stand as a complementary law to the UDHR in addressing human rights in line with the principles in Islamic sources (Turan Kayaoglu, 2020). The non-refoulement principle which serves as the cornerstone of contemporary international refugee law is acknowledged in the principles of the Islamic tradition (Syahrin, 2018, p.96)(Bashir & Irfan, 2019, p. 12)(Shoukri, 2011)(OIC, 2006).

2. Laws and institution governing refugees in Malaysia

Federal Constitution is the supreme law in Malaysia. Article 3(1) of the Federal Constitution declares that while Islam is a religion of the federation, other religions may be practiced in all areas of the Federation in peace and harmony. The states implemented Islamic Family Laws (IFL) in accordance with the federal constitution's clauses (Abdul et al., 2005).

In the Islamic Family Law (Federal Territories) Act 1984, it is clearly stipulated that the law applies to all Muslims except as specifically stipulated in Section 4 exceptions. This Act applies to all Muslims resident in the Federal Territory and to all Muslims residing in the Federal Territory but living outside the Federal Territory. This shows the far-reaching applicability of this rule to all Muslims, both citizens and non-citizens. Section 5 spells out the criteria to determine someone's Muslim status. Without attempting to cast doubt on that person's faith, belief, conduct, temperament, character, deed, or omission, the question of whether they are a Muslim for the purposes of this Act shall be decided based on their general reputation. This law has strengthened the ability of non-citizen to get the same treatment as other Muslims as long as they remain steadfast and adhere to Islam.

Similarly, Section 4 of Islamic Family Law (State of Selangor) Enactment 2003, except as otherwise specified, states, this Enactment shall apply to all Muslims residing in the State of Selangor as well as to all Selangor residents who are residing abroad. It demonstrates how Selangor's Islamic family law permits Muslims of all racial and ethnic backgrounds to practice their religion and enjoy the same legal protections. As long as they reside in Malaysia, the Islamic Family Laws covers all Muslims.

Marriage and divorce administration varies within states due to state's autonomy in establishing policies, laws, and regulations. Therefore, it is not surprising that the registration of Rohingya marriage in this country is inconsistent. However, this became a more complicated issue due to the unrecognized legal status of refugees (Mamat & Mohamed Razali, 2020a)(Zulfaqar Mamat & Rodziana Mohamed Razali, 2020).

Since the IFL covers all Muslim (citizens and non-citizens), it is important to explore the enforcement of the stated provisions. Hence, a scoping review is adopted to identify the current legal status of refugees in Malaysia, procedural (including evidentiary) issues in marriage and divorce management

among Muslim refugees and the impact caused by existing gaps in laws and institutions governing Muslims' marriage. This article focuses on Rohingya refugees based on reason previously justified.

2.1 Legal status and identity

Since the Rohingya refugees' legal status in Malaysia is unclear, there is uncertainty regarding their access to and entitlement to the most fundamental services, including formal education, health care, employment as well as marriage and birth registration of children born to Rohingya couples in Malaysia. Further risks to their right of residence and personal security accompany such defenceless position (Tan Pok Suan, 2006, p. 114) Target 16.9 of the 2030 Sustainable Development Goals outlined birth registration as the sole and primary indicator to gauge progress toward the goal of "Leaving no one behind" by requiring that everyone have a legal identification by 2030, which includes birth registration (Oppenheim et al., 2015).

In order to empower migrants to effectively exercise their human rights, Objective 4 of the Global Compact for Safe, Orderly and Regular Migration (the "GCM") requires that migrants be "...issued adequate documentation and civil registry documents, such as birth, marriage, and death certificates, at all stages of migration." Malaysia and other United Nations Member States have committed themselves to this objective (UNHCR GCM, 2019 p.10 para 20).

The Global Compact on Refugees' (GCR) final draft expressly recognizes the critical importance of civil and birth registration in establishing a legal identity, including nationality, and preventing the possibility of statelessness (UNHCR GCR, 2018 p.16 para 82). This is so because a person's legal identity is fundamentally determined by their nationality and any supporting documentation ((UNHCR GAP), 2014). The issue at hand is, access to legal identification and documents for historically marginalized groups which has been continuously contested by policy analysts (Oppenheim et al., 2015, p. 4). In this situation, it is necessary to take additional steps to ensure that the marginalised groups have access to the range of legal documents necessary for equal and full participation in society. These additional steps must go beyond simple birth registration (Dahan & Gelb, 2015, p. 7).

Malaysia has been one of the states that not only does not recognise refugee's legal identity but also has discriminatory domestic law that runs counter to the international refugee conventions. This is acknowledged in the existing legal status of refugees as "illegal immigrant" in Malaysia under Article 6 of the Immigration Act (Lim Huey Teng, 2020). However, refugees' identity has been inconsistently acknowledged in some ad-hoc policies. For instance, in 2004, under the purview of the Passport Act of 1996 (Passport Order (Exemption) (No 2), Amendment 1972), the government granted approval for temporary stay through the IMM13 pass for refugees from the southern Philippines in Sabah (FMT, 2020). However, it has been abandoned after two (2) weeks (Azizah Kassim, 2015, p. 180) and the pass was not applicable to Rohingya refugees (Razali, 2020).

In 2016, UNHCR officially granted each refugee the UNHCR ID card after passing the status determination for refugees (SRD) process. According to reports, the government is investigating the idea of charging registered migrants a fee to receive their own identity cards (Australia Government, 2021). Holders of UNHCR ID cards are able to live in their communities rather than in detention facilities, receive cheap medical care, and enroll in non-profit educational institutions rather than public ones. However, according to media accounts, even cardholders may not feel safe visiting government hospitals for fear of being identified as undocumented immigrants and jailed due to the absence of legal protection. As an alternative, some people might go to pricey private hospitals, cure of their illnesses at home, or not seek any treatment at all (Australia Government, 2021)

Malaysia which has not ratified the 1951 Refugee Convention or the 1967 Protocol often place restrictions on the UNHCR's ability to advocate for refugees. Instead, many States assign UNHCR a lesser degree of autonomy for ensuring the wellbeing of refugees to protect the state's autonomy (Kagan, 2012). Despite this ongoing problem, a significant number of refugees have been staying in Malaysia for more than four (4) generations (Khalid, 2022, p. 58) without any solution.

Refugees' situation in Malaysia demands special attention especially in terms of equipping these communities with appropriate documentation so that they can carry out normal lifestyle through

integration (Nicosia (UNHCR), 2014) in host country. The marginalised and vulnerable group does not possess any documentation due to persecution. However, living and proliferating in the State hosting them, they shall at least possess a valid and recognised marriage certificate for their own basic human rights protection, avoiding an undocumented and stateless generation besides making it easy for them to practice the Shariah and the for the country's supervision in the future.

2.2 Marriage and divorce issues: legal (including evidentiary) and institutional gap

The requirements for a legally valid marriage are set forth in the Law Reform (Marriage and Divorce) Act 1976 (Act 164). In other word, legal relationship between spouses and parentage are only formed upon adherence to this law. Although it is frequently not necessary to turn to the law, which provides a number of ways to establish a person's parentage with regard to a specific child, yet it can be crucial for parentage to be successfully established, especially when it is sought to establish the relationship or to enforce the responsibility that the parent owes to the child (Leong Wai Kum, 2013, p. 254).

For Muslims, marriage and divorce falls under the personal and family law that falls within the legislative jurisdiction of the State Government under Item 1 of the Second List (List of States) in Ninth Schedule of the Federal Constitution of 1957. Therefore, the laws relating to marriage and divorce among Muslims, including foreign nationals residing in the country, are part of the jurisdiction of the State Government. This jurisdiction is administered and enforced by the State Department of Islamic Religion (JAIN) through Islamic family laws either in the form of either Enactments throughout Peninsula, Acts for the Federal Territory or Ordinances for the state of Sabah and Sarawak.

In the Federal level, the Department of Islamic Development of Malaysia (JAKIM) has served as the primary federal agency to coordinate and streamline the necessary actions in addressing the issue of marriages of Muslim refugees in the country in terms of adopted policies and implementation at the state level. It was decided that JAIN in its respective state can approve the marriages of Muslim refugees based on documents issued by UNHCR at the 32nd General Meeting of the Marriage Registrars, Divorce and Consultation (KPNCR), which was held from May 6–8, 2015 and was hosted by JAKIM (JAKIM, 2015). JAKIM's primary responsibility is to standardize Islamic law across all of the states, including the operation of Shariah Courts (Farid Sufian Shuaib, 2012, p. 93). While JAKIM's role is to coordinate the Islamic affairs among states in Malaysia, JAIN still retains autonomy over their state and is not obligated to abide by JAKIM's recommendations (Rodziana Mohamed Razali & Zulfaqar Mamat, 2019b). Therefore, each state retains the option of deciding whether to execute the KPNCR 32nd meeting decision.

In Islam, marriage take place when a man and a woman enter into a holy contract in order to establish relationships that consist of tranquility (*sakinah*), love (*mawaddah*), and mercy (*rahmah*). Marriage is a Prophetic tradition (*Sunnah*) and a religious obligation that also attempt to prevent adultery (Harisudin & Choriri, 2021). The advantages of proper marriage extend beyond the family to the entire community. As a result, proper regulation of marriage plays an extremely crucial role in the life of the nation and its society. Having a legally valid marriage certificate serves as an evidentiary proof in the Shariah court if the marriage is challenged or if there is any dispute among marriage parties. In the case of divorce or child custody, marriage certificate is the main document required prior to proceed with the case besides other method of proofs such as *iqrar* and *syahadah* (Ramlee & Malek, 2012, p. 229).

Gaps on Evidential Method in proving marriage and divorce the Shariah Courts

Evidential process in the Shariah court is based on the Shariah Court Evidence Act (Federal Territories of Malaysia) 1997 (SCEA) specifies the requirements for discharge of the burden of proof under Section 73 of the Act. The method in which this evidence is admissible before the court was provided under section 85 of SCEA.

The term “evidence” in the Act includes— (a) *bayyinah* and *syahadah*; (b) all statements which the Court permits or requires to be made before it by a witness in relation to matters of fact under inquiry: such statements are called oral evidence; and (c) all documents produced for the inspection of the Court: such documents are called documentary evidence. The specifications include proving marriage between husband and wife can only be done through *bayyinah* different with the methods to prove allegations

of a husband against his wife which are through *syhadah* and *bayyinah*. *Syhadah* means any evidence adduced in Court by uttering the expression “*asyhadu*” to establish a right or interest. *Bayyinah* means evidence which proves a right or interest and includes *qarinah*. *Qarinah* means fact connected with the other fact in any of the ways referred to in SCEA. (Syariah Court Evidence (Federal Territories) Act 1997, 2006).

A legally valid marriage certificate reflects a strong *bayyinah* because it is regarded as a form of primary document that cannot be challenged. Section 49 of SCEA defines primary evidence as the document itself produced for inspection by the court (Syariah Court Evidence (Federal Territories) Act 1997, 2006). Marriage certificates that are not legally authorized, on the other hand, are not regarded primary documents, and their legitimacy and information can be disputed in court. Having a systematic marriage regulation in accordance with the syariah laws enacted in each state are recommended in Islam. Viewing from administrative level, having a proper marriage regulation is in line with the *siyasah shar'iyah* perspective (Zulfaqar Mamat et al., 2023). Since there were lacunae in provision of valid marriage certificate to the refugees, the government needs to regulate marriage among the society including the non-citizens residing in its territory in order to establish a society that is safe, in harmony and peaceful.

Azizah Kassim (2015) depicted marriage scenario among Muslim refugees conducted by several community-based organizations (CBOs) in different states in Malaysia. According to her, marriage among Muslim refugees usually take place without the involvement of government institution due to well-founded of detention. Therefore, CBOs such as Community Rohingya Pro-Democracy Organization (CRIPDO) and Majlis Ulama Rohingya (MuR) serving refugee community in Johor and Peninsular respectively have proactively taken initiative to issue marriage certificate to married couple among Muslim refugee without direct engagement with government institution (Azizah Kassim, 2009).

Rodziana Mohamed Razali and Zulfaqar Mamat (2020) had conducted qualitative research carried out through desk review and semi-structured interview method to study the procedures involving marriage registration among Muslim refugees residing in four (4) urban states in Malaysia. Data were collected from the Federal Territory, Selangor, Negeri Sembilan and Pulau Pinang. The finding shows, not having a coordinated system to regulate refugee marriage and divorce administered under Shariah law causes issuance of legally invalid marriage certificate. This causes various other issues ranging from violation of fundamental human rights (especially those of women and children) to bridge of Shariah legal jurisdiction (*ahkam*) among Muslim refugees.

Legally valid marriage certificate is important in Shariah law as it is the only document that serves as evidential proof to determine the rights between marriage parties. Among the factors refugees' marriage certificates are not legally authorised is, the lack of credentials in Islamic knowledge among *kadi/jurunikah* (Zulfaqar Mamat & Rodziana Mohamed Razali, 2020b). The states' act of not authorising all marriage certificate issued by CBOs is in line with the Islamic law practised in Malaysia. In Islam, it is important to ensure the authenticity of document presented before the court. Based on the provisions of the Holy Quran and Hadith, Islam encourage the usage of forensic science methods in legal proceedings, such as **document analysis and official stamps**, to ensure the authenticity of the document (Fattah et al., 1907, p. 1914). The state autonomy in marriage registration and the importance of legally valid marriage certificate authorized by state can be seen through the case of *Mansor bin Mat Tahir V Kadi Daerah Pendang Kedah & Anor* [1989].

However, it is crucial to note that due to geographical difference, challenges in procedural process to present documents proving legal identity and the different jurisprudence (*ahkam*) that applies to Rohingya refugees during marriage such as the irrelevance of presenting the bride's representative (*wali*), other alternative should be taken into consideration. It has been argued that the broad idea of proof (*bayyinah*) agreed upon by the majority of jurists must be adopted in Shariah courts (Ibn Farhan, 1995, p. 101) (Ibn Qayyim, 1995, p. 19). Supporting the argument further, it is important to note that, Section 3 of the SCEA 1997 addressed the broad concept of proof. In defining 'evidence', the SCEA 1997 covers all oral evidence offered in court by any individual, including a non-Muslim or a minor; documentary evidence, whether public or private; and expert opinion. The Shariah Court case of *Re Nyonya binti Tahir* demonstrated an advancement in this notion. In this case, the court accepted evidence from non-Muslim witnesses as well as documentary evidence (Mohamad et al., 2017).

2.3 Impacts of gaps on refugees

Since the Islamic Family Law was passed in Malaysia in 1984, there have been at least twenty-one laws that penalize marriage registration violations with imprisonment or fines (Harisudin & Choriri, 2021). For instance, Article 33 of the IFLA states, a Malaysian citizen who marries abroad and does not register the marriage to the Marriage, Divorce, and Reconciliation Registrar of Muslims or their representatives abroad within six months of the marriage date faces a fine of RM1,000, a maximum six-month jail sentence, or both (Islamic Family Law (Federal Territories) Act 1984, 1948).

Unregistered marriages are harmful in both the Shariah and legal aspect. Even though the marriage is valid from a religious standpoint, they may lose some marital privileges in the absence of formal certification or recognition from the state (*yashihhu syar'an wa la yashihhu qanunan*). The fact that the state imposes penalties for wilful marriage registration violations is prove that it is harmful to the community. To add flesh to bone, the realisation of the objective of the law (*maqasid shariah*) can be found through the enforcement of both the legal sanction and the registration of marriage (Harisudin & Choriri, 2021).

Legal Implication to birth registration.

Cheng Heng Lee states that State rules on marriage and immigration primarily affect rights to domicile, freedom from restrictions on employment, and eligibility for citizenship. When it comes to birth registration, children born to refugees and asylum seekers in Malaysia can typically use the service even if their parents have a recognized form of identification, such as a passport or UNHCR card, along with the additional paperwork needed to complete the process ((ERT), 2016). The child born in the marriage will be registered as the mother's only child even though there is no marriage certificate for either parent. The name and details of the child's father, as in other comparable cases, cannot be included in the birth certificate issued to the child (Marskell and Sorchik, 2018, p. 30). Birth certificates without information about the father reveal that a Rohingya mother is a woman who gave birth to her child outside of wedlock. In the past, there have been complaints from members of the community that parents have failed to register the births of their children because of the shame associated with unmarried Muslim women and illegitimate children (Rodziana Mohamed Razali, 2020).

Based on a study in Penang, it was reported that there is no formal marriage registration among Muslim refugees. Marriage among the Muslim refugees were recorded by the community-based religious organisation like Majlis Ulama Rohingya (MuR). However, the National Registration Department (NRD) will accept marriage certificates from MuR (Rodziana Mohamed Razali, 2020).

Majority of the states do not have any alternative to provide birth registration for the child born from Muslim refugees' marriages. This is mainly due to absence of authorised marriage certificate to serve as evidentiary proof that the marriage has taken place or the invalidity of marriage certificate that has been issued by CBOs. Not having a legal recognition of marriage certificate jeopardise the purpose of having one in the first place which is to protect the rights of parties involved in a marriage institution. As a result, the stakes are unquestionably high in terms of the ambiguous proliferation of intergenerational statelessness and its detrimental humanitarian effects among Rohingya refugees in Malaysia (Rodziana Mohamed Razali, 2020).

Shariah Implication

Many of Muslim refugees have expressed dissatisfaction with the high cost of registration and certificate issuance. Others claim that the agency issuing the certificate did not check the status of the prospective married couples before issuing a certificate, which negates the purpose of certification and allows married men and women to enter into additional marriages, leading to polygamy—which is legal for men but forbidden for women in Islam (Azizah Kassim, 2015).

In the case of the issuance of Rohingya marriage certificate, the marriage certificates issued by Rohingya community-based organizations (CBOs) are generally not accepted before the court (Kasim et al., 2022). The reason for the unacceptance includes the justification that the Rohingya *Imam* or *jurunikah* conducting their marriage does not have credential to carry out the solemnization of that

particular marriage in the first place (Zulfaqar Mamat et al., 2023) this eventually causes various other issues including bridge of Islamic law and Shariah *ahkam* among these communities (Zulfaqar Mamat & Rodziana Mohamed Razali, 2020) (Rodziana Mohamed Razali, 2020).

A marriage that does not comply with Islamic law procedures can lead to a violation of Shariah *ahkam*. Some of those substantive and procedural issues that contradicts Islamic law are underage marriages or child marriage (ASPIRE Penang, 2020) and violations of the 'iddah period. The determination of 'iddah period for Muslim women is usually calculated from the date of formal divorce given by the Shariah court after considering various evident such as oral proof and documentary proof as shown in the case of Nyonya binti Tahir (Ramlee & Malek, 2012).

Due to the inconsistencies that exist in the procedural process before the issuance of marriage certificate under Shariah law, Malaysian governmental offices occasionally may not recognize the marriage certificates that have been issued. Inconsistencies in marriage regulations creates more conflict. Some states in Malaysia such as Kelantan does acknowledge the validity of marriage certificate which has been issued, but Selangor and other states do not accept the marriage certificate (Zulfaqar Mamat & Rodziana Mohamed Razali, 2020a). This creates conflict between the federal institution such as NRD and state institutions. Further consequences include (i) not having adequate documents to prove legal identity, (ii) violation of fundamental human rights to much more vulnerable person in the community; women and children and (iii) violation of Shariah *ahkam*.

One of the highly reported issues that is inconsistent with administration of Islamic law is the practice of child marriage among refugees. It is reported in a case that despite attempts at intervention, the marriage of a 13-year-old Rohingya girl went ahead as planned. The family simply informed local officials that the girl was 18 years old, and with a "willing" bride, the authorities decided not to intervene. Without any legal status in Malaysia, authorities are frequently unwilling to intervene to protect a refugee child from marriage. This appears to be one of those instances.

The table below summarises the cause and effects of procedural issues particularly in the context of evidentiary proof before the government institutions.

Refugees	CBOs	Government (State Institutions and Shariah Court)	Shariah Implications
<p>Dissatisfaction with the high cost of registration and certificate issuance</p> <p>Most of the refugees are unaware of the importance of registration and the requirement for marriage certificates.</p>	<p>Agency issuing the certificate did not check the status of the prospective married couples before issuing a certificate</p>	<p>Government officers may not recognize the marriage certificates that have been issued.</p> <p>State responses to these certifications differ between states, within states' districts, and between federal and state authorities.</p>	<p>Polygamous marriage among women</p> <p>Underage marriages</p>
	<p><i>Kadi</i> or <i>jurunikah</i> who is appointed does not have credential as an authorized <i>kadi</i></p> <p>There is no form of control over the marriage certificate so this document can be found anywhere including at the night market</p>		<p>Violations of the 'iddah period</p> <p>Violation of child's rights when there is dispute between husband and wife</p> <p>Violation of women's rights when there is</p>

			dispute or dissolution of marriage
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Since there were inconsistencies in the procedural process in the issuance of marriage certificate among Muslim refugees, the researcher is of the view that the government institution shall form a bridge between these CBOs and JAIN in order to supervise the issuance of invalid marriage certificates. The certificate issued by CBOs under the watch of a credential *Imam* or *jurunikah* through a uniform process authorized by states in Malaysia shall be in line with the procedures underlined under the Shariah law and explanation provided under Section 49 of the Evidence Act. The marriage and divorce certificate issued under the watch of the qualified *Imam* should fulfill the requirement for document analysis and have a recognized official stamp. Such collaboration would allow the issuance of marriage certificate to be qualified as a proof before the court despite lifting the burden from JAIN to entertain the marriage management of the already marginalized group having no documents proving their legal identity other than the UNHCR ID cards. This could help to solve number of issues lingering around these community. The researchers adopt a more comprehensive approach by exploring best practices in regulating marriage among refugees from several OIC countries.

3. Laws and institution governing refugees in Jordan

As previously stated, Jordan is not a signatory to the international refugee convention and do not recognise legal status of refugees at the domestic level. However, it has collaborated and inked a memorandum with the UNHCR resulting in a recognition of the *de facto* refugee under the law. In 2016, non-Jordanian including refugees were allowed to apply the Jordanian law. The Shariah Court (SC) in Jordan state have provide service to refugees in managing their marriage and divorce in accordance with the law. Among the most needed document by Muslim refugees before applying for marriage registration is the MoI card required for gaining Ministry of Interior approval to marry for Syrian refugees. Difficulty in acquiring this card impede the marriage and divorce registration amonga significant number of Syrian refugees. Not having a proper marriage registration through the SC put refugees in various danger such as violation of rights between marriage parties and effects the birth registration of child from that marriage.

3.1 Legal status and identity

Jordan has not ratified either the 1967 Protocol or the 1951 Convention on the Status of Refugees. It has, nevertheless, inked a Memorandum of Understanding (MoU) with UNHCR, whereby it consents to accept UNHCR's determination of refugee status (RSD) and to welcome asylum applicants, including those without legal status. The memorandum prohibits the refoulement of refugees and asylum seekers and accepts the definition of refugee found in the UN Refugee Convention (De Bel-Air, 2006, p.3). According to a 1998 Memorandum of Understanding (MoU) between Jordan and the UNHCR, those of them who apply for asylum and use UNHCR services in Jordan are automatically *de facto* refugees under the law. However, access to Jordan was soon restricted, first for Iraqi and Palestinian refugees from Syria as of 2012, then for all Syrians in 2013. These limitations are justified by growing security concerns (Amnesty International, 2013, p. 10).

Jordan is both geopolitically significant and unique due to its long history of admitting refugees. Jordan has received international recognition for its hospitality in hosting Syrian refugees since 2011, when a significant number of them moved into camps (Barron et al., 2020, p. 1010). For this reason, Jordan is a pertinent country to investigate.

3.2 Marriage and divorce issues: Legal (including evidentiary) and institutional gaps

Jordan's religious courts (*al-mahaakim addeeniya*) views Syrians as families in need of affordable documents rather than as a security issue (Ali, 2023, p. 189). They are not part of a security system like Jordan's Ministry of Justice's criminal and law enforcement courts and they are different from the Syrian Refugee Affairs Directorate (SRAD) (Ali, 2023, p. 189). However, their services contribute to the broader security objective in that the referent object they protect is the demographic balance. They reduce the risk of a potentially stateless and permanent Syrian presence by assisting Syrians in documenting births and marriages (Ali, 2023, p. 190). Jordan's Sharia Courts (SC) are part of the

country's national legal infrastructure and service institutions. They offer Jordanians and, more recently Syrians, affordable family documentation and conflict resolution (Ali, 2023, p. 190).

The SJD, Supreme Judge Department's Directorate of Reform, Mediation, and Reconciliation (*Qaadhi al-Qudhaat*) provides technical assistance and expertise to the SC, which is a component of governmental religious courts. Legally qualified professionals provide services subsidised by the state, such as divorces, for half the cost of Ministry of Justice courts (*al-Qadhaa' al-Nidhami*). All Muslims have access to free services such as family conflict counselling and mediation (Ali, 2023, p. 190).

The Supreme Court registers births and deaths and mediates early-stage custody and divorce issues without the use of expensive lawyers. Syrians can access its services despite overwhelming demand, as a result of adaptive procedural advances. The Supreme Court introduced regulations in 2014 allowing non-Jordanians to apply Jordanian law, mostly benefiting Syrians. SC built branches in the Za'tari and Azraq camps, the first of such facilities in any Jordanian refugee camp, to record births, marriages, and deaths. The Supreme Court granted concessions when Syrian actions violated Jordanian law. In Jordan, failing to register a marriage is a punishable offense with substantial penalties (NRC and IHRC, 2016, p. 25) (Ali, 2023, p. 190).

The religious component of the court provides some equity as a venue where a shared faith-based ethical framework underpins its work (although under the authority of another state). The SC and SJD have adapted to the demands of Syrians and are not security agencies dealing with threats. Their goal is to help families, but the long-term and short-term consequences of being stateless and living without documentation are well considered.

3.3 Impacts on refugees

Documentation indicates that, despite the small prospects, channels for Syrians to move on are not fully closed. Undocumented births from a Syrian population already marginalized by Syrian state authorities risk developing a permanent undocumented and potentially stateless population on Jordanian territory. Although not overtly stated, Jordan's leadership understands the political significance of documentation assistance for Syrians (Ali, 2023, p. 191).

Civil and legal documentation challenges are frequently intertwined. Thus, the repercussions refugees have faced and the coping techniques they have employed are inextricably linked. The major consequence noted by persons without documents was restricted access to services, particularly health and education, as well as humanitarian and development assistance (NRC and IHRC, 2016, p. 27). In 2014, the confiscation of documents from Syrians by Jordan authority ended (NRC and IHRC, 2016, p. 14).



In 2016, 180,000 documents were sorted, scanned, and returned, thanks to a push by UNHCR (Alsalem, 2013; NRC and IHRC, 2016, pp.

14, 42). In the same year, it appears that holding of a new MoI card is required for gaining Ministry of Interior approval to marry for Syrian refugees. As a result, refugees who do not have the new MoI card appear to be unable to marry or legalize informal marriages in host communities since they have not gained Ministry of Interior approval (NRC and IHRC, 2016, p. 26).

A lack of documentation has often resulted in movement restrictions. In the long run, refugees without documents may have difficulties confirming their identity and nationality, as well as exploitation in illicit labor and a range of other threats. Without documents, Syrian women and girls may suffer specific

gender-based dangers, such as early marriage. The lack of documentation causes a number of connected human rights concerns (NRC and IHRC, 2016, p. 27).

Acknowledging this issue, Shariah Courts in Jordan has taken proactive steps in registering refugees and provide them with appropriate documentation even though these refugees cannot present sufficient documents in the process. Although inconsistent with the States' legibility towards refugees, SC bravely stand by their principle to ease the refugees' marriage process albeit with requirement of MoI identity card.

4. Laws and institution governing refugees in Turkey

Turkey is a country signatory to the 1951 Refugee Convention and the 1967 Protocol (ESCWA, 2019). Thus, the rights of refugees were exclusively protected under the Turkish law. Marriage and divorce between refugees are regulated through the Turkish Civil Code. Possession of documents prior to refugee registration were provided by the UNHCR and the government acknowledged those documents. This secure refugees' rights in marriage and divorce. No procedural or evidentiary issues were recorded. However, due to lack of knowledge and refugees' irresponsibility, some refugees still chose not to register their marriage and divorce appropriately and undoubtedly this will effect the woman's and child's rights in the long run.

4.1 Legal status and identity

Turkey recognizes the civil status of asylum seekers, refugees, and stateless people in their country of origin or past habitual residence in accordance with the rules of that nation. The Turkish government signed the 18 March Agreement with the EU in 2016, following a series of negotiations with the EU (Council of Europe 2016). The resumption of the EU membership process in the early 2000s ushered in a new era of asylum and migration management legislation and administration (Sağiroğlu, 2006). Turkish refugee policy reform evolved concurrently with the country's candidacy for EU membership. For example, as part of the EU accession process, Turkey reformed its migration policies and legal frameworks, including by enacting the Law on Foreigners and International Protection (LoFIP) in 2013 and establishing the General Directorate of Migration Management (GDMM) in 2014 (Siddikoglu & Sagiroglu, 2023, p. 51).

The massive flows of refugees did not drive Turkey to backtrack, but rather prompted the government to enact new laws. In this sense, granting Syrian refugees the right to citizenship in 2016 was a significant victory (CNNTurk, 2022). Despite citizens' outrage and opposition party criticism, the Turkish government has not abandoned its citizenship policies regarding Syrian refugees. Approximately 200,000 Syrian refugees had been granted Turkish citizenship as of 2022 (Siddikoglu & Sagiroglu, 2023, p. 51). According to official statements, about 500,000 Syrians have returned to their home countries since 2016, over 600,000 have irregularly moved to Europe, and approximately 50,000 have been resettled in other countries (ibid).

4.2 Marriage and divorce issues: Legal (including evidentiary) and institutional gaps

Religious marriages are accepted as official marriages in several nations in Turkey. As a result, religious marriages performed in the nation of origin or past habitual residence would be recognized in Turkey, as this is a type of official marriage in that country. Other traditional forms of marriage would be recognized in Turkey as long as the person testified so upon registration with the PDMM, even if an official document certifying the marriage could not be submitted at the time of registration (UNHCR, n.d.).

Only Turkish laws and legislation are adhered to for a legitimate marriage to individuals who are stateless, refugees, or asylum seekers residing in Turkey. Under Turkish law, a Turkish national and a foreigner, or two foreigners (such as refugees, asylum seekers, or stateless people) of different nationalities, may marry in Turkey in front of the proper authorities. Marriage can also occur between two refugees or asylum seekers of different nations. Turkey's minimum age for legal marriage age is 18. However, those who are 17 years old may get married with the approval of their parents or legal guardian. For people who are 16 years old, marriage is permitted with the approval of their parents or

legal guardians and/or in line with a court order (Refugees Association, 2018). According to the Turkish Penal Code, an informal marriage with children constitutes child abuse. Those who violate the law risk penalties, including jail (Penal Code, 2016). All marriages conducted by Turkish officials are subject to the Turkish Civil Code (Turkish Civil Code, 2003) and applicable laws.

To marry, the following documents must be delivered to the Marriage Departments of the Municipalities:

- The couple must file a marriage petition (*evlenme beyannamesi*), which must be signed by both individuals applying to marry.
- A certificate of celibacy proving that the applicants are not already married;
- Medical certification that the candidates are free of disorders that would preclude them from marrying;
- International protection applicant registration document; international protection status holder identification paper; or temporary protection identity document
- Four photos.

Additionally, the marriage of minors and individuals with limited capacity requires the written consent of a legal representative, containing a verified signature.

To divorce, refugees must file a divorce petition with the appropriate Family Court. In a divorce petition, a refugee may request that the court resolve the custody issue(s) concerning his/her children. Refugees may access legal aid for divorce and custody proceedings through the Legal Aid Bureaus of the Bar Associations. The Bar Association may appoint a lawyer free of charge if it is determined that he or she lacks the financial wherewithal to cover attorney and judicial expenses (UNHCR, n.d.).

Since the refugees are legally recognized in Turkey, the procedural and evidentiary issues besides institutional gap in management of marriage and divorce among refugees is close to absent in Turkey.

4.3 Impacts on refugees

According to official statements, about 500,000 Syrians have returned to their home countries since 2016, over 600,000 have irregularly moved to Europe, and approximately 50,000 have been resettled in other countries (Siddikoglu & Sagiroglu, 2023, p. 51). In order to protect women's and children's legal rights, including those of husbands, legal marriage is essential.

Since 2014, there has been legislation and a formal structure in place in Turkey for refugee access to healthcare services. Comparable initiatives have also been made for psychosocial counseling and child protection. The primary entity in charge of ensuring child protection in Turkey is the Social Services division of the Ministry of Family, Labor, and Social Services (Sahin et al., 2021). However, because of their broad range of responsibilities, there have been increasingly focused public-private partnership projects to enhance child protection services for both the host community and the refugee population (Ecem Sahin, Tolga E. Dagli, 2021).

Despite the absence of a refugee-specific child protection law in Turkey, Syrian refugee children fall under the purview of the Child Protection Law, which aims to regulate the protection and rights provisions for children who need protection or who are in violation of the law. According to Article 5 of the Child Protection Law, there are a number of steps that must be performed for children who require protection in the areas of counseling, education, child care, health, and shelter (Juvenile Protection Law, 2005, Art. 5)

However, many refugee practices traditional marriage either known as *'urfi* marriage for Sunnis or *mut'ah* marriage for Shi'is. Many have been abandoned by their Syrian husbands, who have returned to Syria or relocated to other Middle Eastern nations in search of work, where they frequently remarried. The Turkish government may urge the wife to register her marriage, but the Syrian husband may not be found (Afar & Friedland, 2023). Even if he was identified, officially marrying him would not be

beneficial unless he offered financial assistance for her. If he did not financially support her and left, the wife would face the added dilemma of being unable to obtain a divorce in order to remarry (Moors et al., 2018).

In a nutshell, the issue of having laws governing refugees' marriage and divorce does not guarantee that all refugees would legally register their marriage. Some issues stemming from the community itself could hinder the effort put on by laws and institutions to protect their wellbeing. This is where the importance of CBOs come into play as they are more closely related to the refugee community and can easily supervise them. Educating the refugees' women and children through CBOs is the first step to get these community to be involved in the marriage registration process. This can avoid further negative consequences for the marriage parties as there is already laws and government institutions that protect their rights accordingly.

5. Laws and institution governing refugees in Saudi

Saudi Arabia is among 44 member states of the United Nations that are not signatory to the 1951 Refugee Convention and the 1967 Protocol (Lysa, 2023). There is no specific regulations on marriage and divorce matters for refugees. Refugees family are not governed by the government instead the responsibility to watch over refugees' family were carried by the UNHCR. The gaps found in absence of legal status and marriage regulations among refugees in Saudi were the same as the gaps in Malaysia. The impact of this gap are evident in the absence of refugees protection in every aspect; legal, social and economic. Although, Saudi government has currently put effort to curb the existing issues among refugees on educational and healthcare aspect, there is no action to solve the absence of regulation on refugees' marriage and divorce.

5.1 Legal status and identity

Saudi Arabia has no domestic refugee legislation or provision for granting a refugee status although it is listed among the second highest country that host the highest number of refugees (ESCWA, 2019). The relatively small number of refugees registered under UNHCR mandate in Saudi Arabia may be justified by the government's limited power and access to the UNHCR in handling refugees (Kagan, 2012).

Regardless of whether a state has ratified a treaty, its guiding principles and provisions are regarded as part of customary international law which in the case of refugees, is the non-refoulement principle. In practice, this implies a duty to offer asylum to individuals within a state's borders who have fled persecution in other countries (UNHCR, 1967). Officials in Saudi Arabia who deal with refugee matters do accept this commitment and maintain that the country's reception of refugees is based on the non-refoulement principle (Lysa, 2023).

Both Saudi Arabia's regulation of migration and that of refugees should not be seen as unusual or as being distinct from larger trends and mechanisms. The majority of de facto refugees are legally classified as foreign workers through the *kafala* system. According to the article by Lysa C., the Saudi government has historically changed the migration governance system to accommodate refugees inside the nation (Lysa, 2023). Foreigners are permitted to apply for asylum in Saudi Arabia under both the 1992 Basic Law of Governance and the 1952 Residence Regulations Law (The Residence Regulations, 1952, Art. 3,30,50). The Ministry of Interior, however, has the exclusive authority under Article 33 of the Residence Regulations Law to order any foreigner to leave the nation without giving a justification (The Residence Regulations, 1952, p. 33). No official document has any regulations regarding the asylum application process. Objective standards for requesting asylum from deportation or other protection as a forcibly displaced individual were also nonexistent (Lysa, 2023).

The *kafala* system continues to be the main mechanism for managing the residency of foreigners in the lack of such legislation, although some adjustments have been made to accommodate de-facto refugees in specific instances. For instance, in 2005, Nayef bin Abdulaziz, the interior minister at the time, claimed that "the Burmese" had come as Muslims completing the hajj but had been granted residency and allowed to work despite being unable to do so (Saudi Press Agency, 2005). He also urged firms to hire members of the Rohingya community (Saudi Press Agency, 2005).

A committee was set up by the government in 2013 to control the Rohingya population and guarantee work and residency permits (Morad Alsaahafi, 2022). The year 2017 saw the announcement that 250,000 Rohingya have received free resident permits (Morad Alsaahafi, 2022). Additionally, charity schools were given legal status, Rohingya pupils were enrolled in mainstream schools, and the neighborhood received medical attention. Only Rohingya who arrived in Saudi Arabia before 2008 were subject to the requirements; those who arrived after that date were not eligible for resident status (Justice, 2019).

In 2022, it is reported that the majority of Rohingya refugees in the nation are not properly documented. They cannot obtain residency permits, which are necessary to engage in lawful employment within the kingdom (US Department of Justice, 2022)

In general, Saudi Arabia's strategy to protecting refugees within its borders is primarily ad-hoc responses to crises as they arise, on temporary and changeable conditions, with the goal of integrating refugees into the migrant labor force through the debatable Islamic concept of *th*(Jureidini & Hassan, 2019)23) (Jureidini & Hassan, 2019).

5.2 Marriage and divorce issues: Legal (including evidentiary) and institutional gaps

Refugees in Saudi have no access to the courts. Based on needs assessment, the UNHCR office in Riyadh offered subsistence allowance to disadvantaged families among refugees. (States, 2010, p. 2261). In 2010, the Shariah law in Saudi does not establish a minimum age for marriage but does allow girls to marry after puberty. According to the Kingdom's Grand Mufti, Abdulaziz Al Sharia, there is no minimum age for marriage, but girls may marry after attaining puberty. Girls as young as ten years old can marry, according to the Kingdom's Grand Mufti, Abdulaziz Al al-Sheikh. Families are sometimes formed when their children reach puberty. Families occasionally arrange such marriages, particularly in remote areas or to satisfy family obligations. (U. S. Department of States, 2010, p. 2261)

Under some conditions, the legislation allows women to pass on citizenship to their children. Judges make decisions about family affairs based on their own interpretation of Islamic law because there is no defined personal status law (US Department of Justice, 2019, p. 33).

Women must demonstrate legally prescribed grounds for divorce in divorce processes, whereas men can divorce without giving cause, alleging "irreconcilable differences." In order to do so, men must pay a sum agreed upon at the time of the marriage as a one-time alimony payment right away. Men, on the other hand, may be ordered by a court to make subsequent alimony payments (US Department of Justice, 2022, p. 55).

According to the 1954-adopted and 1960-amended Saudi Citizenship Law, people who are born inside or outside the kingdom to a Saudi father, a Saudi mother and an unidentified father, or a Saudi mother and an unknown father, or who are born inside the kingdom to unidentified parents, are considered Saudis (US Department of Justice, 2022). The social security office declared in June 2021 that children of foreign dads and Saudi mothers would be eligible to receive their mother's pension in the event that she is widowed or divorced.

5.3 Impacts on Refugees

The fact that all non-nationals' residency status is handled as an administrative rather than a legal matter is a crucial aspect in Saudi. De facto refugees in Saudi Arabia who have an irregular status hence have limited feasible options for legal action or appeal (Jureidini & Hassan, 2019).

There have been instances where the government has refused to fully or promptly register a child's birth, sometimes because the father failed to report the birth or did not have permission to marry a foreigner, resulting in the government denying the child's citizen parents access to public services like education

and healthcare. In the case that a Saudi mother passes away, the children of those women who were married to foreigners lose their right to permanent residency (US Department of Justice, 2019).

There is no explicit law imposing sanctions for child prostitution, there is no statutory rape statute, and there is no minimum age for consenting sex. Pornography, particularly child pornography, is illegal under the law. Children cannot access social assistance or attend schools or colleges unless they have NICs or valid residency permits and are officially enrolled in the family register, both of which displaced children lack (States, 2010, p. 2261)

The regulatory policy that provides legal identity to refugees is ad-hocratic. This causes absence in the laws governing refugees' marriage and divorce regulations. The legal identity of refugees' most vulnerable group in a marriage; the child, is negatively impacted due to absence of marriage and divorce policies. The rights of children in refugees or non-foreigners' family is also not guaranteed.

6. Overall conclusion and recommendations

MALAYSIA	JORDAN	TURKEY	SAUDI ARABIA
Ratification of 1951 Refugee Convention and the 1967 Protocol			
Not ratified	Not ratified	Ratified	Not ratified
Refugee Legal Status in State			
<p>Refugees are not protected under the Federal law but the jurisdiction of Shariah Court covers refugees.</p> <p>Refugees are tolerated under humanitarian ground.</p> <p>Refugees faces discrimination as they are defined as "illegal immigrants" under the Immigration Act.</p> <p>2004- IMM13 pass for</p> <p>Philippine stateless person in the state of Sabah. Rohingyas are not included.</p>	<p>Jordan has received international recognition for its hospitality in hosting Syrian refugees through their integration into labour force under Law of Residency and Foreigners' Affairs since 2011. Jordan restricts the acceptance of refugees due to security concern via ad-hoc policies.</p>	<p>2000- EU membership process.</p> <p>Turkey reformed its migration policies and legal frameworks.</p> <p>2016- grant Syrian refugees before 2008 right to citizenship</p> <p>2022- About 200,000 Syrian refugees were granted Turkish citizenship.</p>	<p>No domestic refugee legislation or provision for granting a refugee status.</p> <p>The majority of de facto refugees are legally classified as foreign workers.</p> <p>2017-250,000 Rohingya have received free resident permits.</p> <p>2022- the majority of Rohingya refugees are not properly documented.</p>
Marriage and divorce issues: Legal (including evidentiary) and institutional gaps			
<p>Shariah court jurisdiction and Shariah Enactments</p>	<p>2016- holding of a new MoI card is required for gaining Ministry of</p>	<p>Marriage conducted by Turkish officials are subject to the</p>	<p>2010- Refugees have no access to the courts. UNHCR office in</p>

<p>protects and includes refugees. However, there are inconsistencies in administrative aspects due to substantive and procedural issues.</p> <p>Most marriages among Muslim refugees take place in a traditional manner (<i>Urfi</i>) some are not in line with Islamic law.</p> <p>Some marriages are managed by CBOs.</p> <p>Marriage certificate are usually issued by CBOs but not legally acknowledged in several states.</p> <p>Marriage registration varies between states.</p> <p>Recognition of marriage certificate varies between federal and state institution.</p> <p>In Malaysia, failing to register a marriage is a punishable offense with substantial penalties.</p>	<p>Interior approval to marry for Syrian refugees.</p> <p>Jordan's Sharia Courts (SC) offer Jordanians and, more recently, Syrians affordable family documentation and conflict resolution.</p> <p>Legally qualified professionals provide services subsidised by the state, such as divorces, for half the cost of Ministry of Justice courts (<i>al-Qadhaa' al-Nidhami</i>). All Muslims have access to free services such as family conflict counselling and mediation.</p> <p>SC built branches in the Za'tari and Azraq camps, the first of such facilities in any Jordanian refugee camp, to record births, marriages, and deaths.</p> <p>In Jordan, failing to register a marriage is a punishable offense with substantial penalties.</p>	<p>Turkish Civil Code 2003 and applicable laws.</p> <p>Religious marriages are accepted as official marriages in several nations.</p> <p>To divorce, refugees must file a divorce petition with the appropriate Family Court. In a divorce petition, a refugee may request that the court resolve the custody issue(s) concerning his/her children.</p> <p>Refugees may access legal aid for divorce and custody proceedings through the Legal Aid Bureaus of the Bar Associations. The Bar Association may appoint a lawyer free of charge if it is determined that he or she lacks the financial wherewithal to cover attorney and judicial expenses.</p>	<p>Riyadh offered subsistence allowance to disadvantaged families among refugees based on needs assessment.</p> <p>Refugees are protected by no means of regulations other than integration into the labor force through the <i>kafala</i> system.</p> <p>Children cannot access social assistance or attend schools or colleges unless they have NICs or valid residency permits and are officially enrolled in the family register, both of which displaced children lack.</p>
Impacts on Refugees			
<p>Failure of birth registration because marriage certificate is not accepted before the Shariah court.</p> <p>Marriage certificates can be obtained easily as there is lack of authorised bodies' supervision.</p> <p>Marriage certificate issued by CBOs are</p>	<p>Refugees who do not have the new MoI card appear to be unable to marry or legalize informal marriages in host communities since they have not gained Ministry of Interior approval.</p> <p>Restricted access to services, particularly health and education, as well as humanitarian</p>	<p>According to the Turkish Penal Code, an informal marriage with children constitutes child abuse. Those who violate the law risk penalties, including jail.</p> <p>Many refugee practices traditional marriage either known as <i>'urfi</i></p>	<p>Child marriage is high in Saudi.</p> <p>The laws governing nationality prohibit Saudi women who marry foreign nationals from passing their nationality to their offspring, with the exception of a few special cases, such as fathers who are unknown, stateless, of</p>

<p>not accepted in some federal institutions which hinders birth registration.</p> <p>Polygamous marriage among women in refugees' community.</p> <p>Violation of 'iddah period.</p> <p>Violation on the payment of maintenance which is obligatory upon husband in Islam.</p> <p>Violation of women's and child's rights.</p> <p>Child marriage.</p>	<p>and development assistance.</p> <p>In the long run, refugees without documents may have difficulties confirming their identity and nationality, as well as exploitation in illicit labor and a range of other threats. Without documents, Syrian women and girls may suffer specific gender-based dangers, such as early marriage</p>	<p>marriage for Sunnis or <i>mut'ah</i> marriage for Shi'is. Many have been abandoned by their Syrian husbands, who have returned to Syria or relocated to other Middle Eastern nations in search of work, where they frequently remarried.</p>	<p>unknown nationality, or who do not prove filiation. If they weren't already citizens at birth, sons of citizens with non-citizen dads can petition for citizenship after they become 18; in these situations, daughters can only do so through marriage to a Saudi male.</p>
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Discussion

To answer the main research question on “how does policy regarding Muslim refugee marriage and divorce regulation contribute to tackling refugees issues particularly in aspect of refugees’ legal identity and Shariah *ahkam*?”, three sub-questions were generated. The answers for the respective sub-questions are as follows: -

- In Malaysia, absence of refugee policy and contradiction of federal law particularly Article 6 of Immigration Act with the international law posit refugees in a discriminated status. State institutions such as JAIN are not free to exercise its power on refugees’ marriage and divorce due to the constrained jurisdiction. Refugees in Jordan and Saudi are integrated into its labour force but are not legally recognised causing rights of refugees acknowledged according to the employment laws on the respective states. In Turkey, refugees’ legal status is fully recognised.
- In Malaysia, issuance of marriage certificates by CBOs tends to be inconsistent with the Islamic procedural law and irregularities in certificate acceptance between states further complicates Muslim refugees’ marriage management. Evidentiary issues due to possession of legally invalid marriage certificate pose as major challenge to ensure rights of marriage parties among refugees. In Jordan, although refugees are not legally recognised, the risk of proliferating an undocumented refugee generation causes Shariah courts to entertain their marriage and family issues in accordance to the Jordanian law. No evidentiary issues were found from existing literature. In Turkey, Turkish Civil Code was applied to refugees and no procedural issues were found due to legally recognised status of refugee and systematic law enforcement were in place. Contrarily, in Saudi, refugees have no access to court and their marriage were not supervised in any shape or form by the laws or government institutions. Traditional (*urfi*) marriage take place among refugees in Saudi. No procedural or evidentiary issues hold a chance to exist.
- Validity of marriage certificates’ authenticity is highly debated since it was issued by CBOs among refugees in Malaysia without supervision by federal or state institutions. Most of the states do not recognise the certificate. This further halts the birth registration of child from a religiously valid marriage. Other implication includes Shariah *ahkam* violations such as polygamous marriage for women, ambiguity in lineage and inheritance issues, violation of ‘iddah period and violation of rights between marriage couples. In Jordan, the requirement of

MoI card poses as a procedural challenge for some refugees to register their marriage. The lack of marriage documentation cause ripple effects on child's legal identity, gender-based violation and child marriage among refugees. In Turkey, refugees are protected under laws regulating marriage and divorce in the State. Violation of such laws are punishable. Due to lack of knowledge on importance of marriage registration, some refugees do not register their marriage. In Saudi, strict laws on nationality restrict the refugees from being accepted as citizen. Furthermore, high rate of child marriage among refugees were recorded as a result of absence of laws and institutions governing refugees' marriage and divorce. There is not much report on refugees' marital issues since they do not record their marriage under any institutions.

Recommendations

Malaysia, like Jordan and Saudi have not ratified the 1951 Refugee Convention and 1967 Protocol. This contributes to irregular policy making by the government and delegation of responsibilities to non-governmental agencies such as UNHCR and CBOs. Institutional gaps that exist complicates the marriage regulation especially in terms of documentation such as possession of valid and legal marriage certificate that functions to protect refugees. As a result, documents forgery which elevates the nation's security concern in this digitalised era frequently take place. In addition, violation of fundamental human rights and Shariah *ahkam*, which indirectly effects child's and women rights increases. To combat these consequences, the researchers urge Malaysian government to curb the core issue causing several ripple effects to the already marginalised community.

Handling substantive and procedural issues through collaboration between federal units and CBOs via state institutions such as JAIN, particularly by enforcing a uniform process to generate marriage certificates with an official stamp for refugees, could aid in reducing the risk of document falsification. Another recommendation is to be more flexible with procedures for getting marriage certificates, as well as to broaden the evidential technique, especially when it comes to marginalized groups such as refugees. This could protect vulnerable populations from further oppression, such as violations of fundamental human rights and Shariah *ahkam*.

The researchers present best practices from OIC countries that has taken several steps to legally integrate refugees into the host community. The closest example which is considered best practice to be adopted in Malaysia is the steps taken by Jordanian Shariah Court to equip the refugees with appropriate documentation through a systematic marriage regulation among refugees. This is not only in line with the Islamic principle but also is consistent with the SCEA to assist Shariah Courts decision making involving refugees if there is marital dispute among this community. The proposed initiative also supports SDG's fourth objective and in the long run.

References

The Residence Regulations, (1952).

Abdul, N., Ahmad, H., & Kulliyah, I. (2005). *ROLE OF THE CONCILIATORY COMMITTEE AND HAKAM (ARBITRATOR): THE PRACTICE AND PROVISIONS OF THE ISLAMIC FAMILY LAW IN MALAYSIA*.

Afary, J., & Friedland, R. (2023). The practice of informal marriages in the Muslim world: a comparative portrait. *British Journal of Middle Eastern Studies*, 00(00), 1–23. <https://doi.org/10.1080/13530194.2023.2194609>

Agency, S. P. (2005). *His Highness Prince Nayef bin Abdulaziz / press interview fifth and final addition*. Saudi Press Agency. <https://www.spa.gov.sa/296567>

Ali, A. (2023). Disaggregating Jordan's Syrian refugee response: The 'Many Hands' of the Jordanian state. *Mediterranean Politics*, 28(2), 178–201. <https://doi.org/10.1080/13629395.2021.1922969>

Al-Qur'an.

- Alsalem, R. (2013). UNHCR in massive sorting effort to return ID papers to Syrian refugees. *UNHCR Press Release*. <https://tinyurl.com/y65rejn6>
- Amnesty International. (2013). Growing Restrictions , Tough Conditions the Plight of Those Fleeing Syria. *Amnesty International*.
- Association, R. (2018). *Conditions for a Valid Marriage in Turkey*. Refugees Association. <https://multeciler.org.tr/eng/conditions-for-a-valid-marriage-in-turkey/>
- Australia Government. (2021). *DFAT COUNTRY INFORMATION REPORT MALAYSIA DFAT Country Information Report MALAYSIA (JUNE 2021) 2 MAP DFAT Country Information Report MALAYSIA (JUNE 2021)*.
- Azizah Kassim. (2009). Filipino Refugees in Sabah: State Responses, Public Stereotypes and the Dilemma Over Their Future. *Southeast Asian Studies*, 47(52–65).
- Azizah Kassim. (2015). Transnational Marriages among Muslim Refugees and Their Implications on Their Status and Identity: The case of the Rohingyas in Malaysia. Azizah Kassim. (2015). Transnational Marriages among Muslim Refugees and Their Implications on Their Status and Identity. *Islam and Cultural Diversity in Southeast Asia*, 175–201.
- Barron, K., Harmgart, H., Huck, S., Schneider, S. O., & Sutter, M. (2020). Discrimination, Narratives and Family History: An Experiment with Jordanian Host and Syrian Refugee Children. *SSRN Electronic Journal*, 105(July), 1008–1016. <https://doi.org/10.2139/ssrn.3627037>
- Bashir, A., & Irfan, M. (2019). *Right of Asylum in Islamic International Law (Siyar) and International Law (United Nations' Universal Declaration of Human Rights): A Comparative Study*.
- Britannica. (2023). Hijrah . In *Encyclopedia Britannica*. The Editors of Britannica. <https://www.britannica.com/event/Hijrah-Islam>
- CNNTurk. (2022). *Bakan Soylu: Harekete geçmeye hazır göç kitlesi var*. CNN Turk.
- Turkish Civil Code, (2003).
- Penal Code, (2016).
- Dahan, M., & Gelb, A. (2015). *The Role of Identification in the Post- 2015 Development Agenda*. 15.
- DE BEL-AIR, F. DE. (2006). Iraqis in Jordan since 2003: What Socio-Political Stakes? *EUROPEAN UNIVERSITY INSTITUTE, FLORENCE ROBERT SCHUMAN CENTRE FOR ADVANCED STUDIES Iraqis, December*, 66.
- Ecem Sahin, Tolga E. Dagli, C. A. & F. S. D. (2021). Vulnerabilities of Syrian refugee children in Turkey and actions taken for prevention and management in terms of health and wellbeing. *Child Abuse and Neglect*, 119(P1), 104628. <https://doi.org/10.1016/j.chiabu.2020.104628>
- (ERT), E. R. T. (2016). *Confined Spaces: Legal Protections for Rohingya in Bangladesh, Malaysia and Thailand*. [http://www.equalrightstrust.org/ertdocumentbank/Confined Spaces_0.pdf](http://www.equalrightstrust.org/ertdocumentbank/Confined%20Spaces_0.pdf)
- ESCWA. (2019). *Situation Report on International Migration 2019 The Global Compact for Safe , Orderly and Regular Migration in the Context of the Arab Region*.
- Esmaeili, H. (2009). On slow boat towards the rule of law: the nature of law in the saudi arabia legal system. *Arizona Journal of International and Comparative Law*, 26(1), 26(1), 1–48.
- Fattah, W. A., Ismail, W., Baharuddin, S., Mutalib, A., Suhaila, S., Saleh, N., Aniq, M., & Alias, A. (1907). A Preliminary Analysis On The Admissibility Of Documentary Evidence Via Forensic Science Method According To Islamic Syariah Law. *Turkish Online Journal of Qualitative Inquiry (TOJQI)*, 12(2015), 1907–1916.
- FMT. (2020). Give IMM13 document only to 'war' refugees, ex-Sabah CM tells Putrajaya. Free Malaysia Today (FMT).

- <https://www.freemalaysiatoday.com/category/nation/2020/06/23/give-imm13-document-only-to-war-refugees-ex-sabah-cm-tells-putrajaya/>
- GCM, U. (2019). Global Compact for Safe, Orderly and Regular Migration. *International Journal of Refugee Law*, 30(4), 774–816. <https://doi.org/10.1093/ijrl/eez009>
- Gehlot, N. (2021). Law and Statelessness: A Case Study of the Rohingya Muslims of Myanmar. *Independent Journal of Burmese Scholarship*, 1. <https://ijbs.online/journal-issues/2021-vol-1/law-and-statelessness-a-case-study-of-the-rohingya-muslims-of-myanmar/>
- Hamza, F. (2021). *Tafsir al-Jalalayn (17:70)*. Royal Aal Al-Bayt Institute for Islamic Thought, Amman, Jordan.
<https://www.altafsir.com/Tafasir.asp?tMadhNo=1&tTafsirNo=74&tSoraNo=17&tAyahNo=70&tDisplay=yes&UserProfile=0&LanguageId=2>
- Harisudin, M. N., & Choriri, M. (2021). On the legal sanction against marriage registration violation in Southeast Asia countries: A Jasser Auda's Maqasid Al-Shariah perspective. *Samarah*, 5(1), 471–495. <https://doi.org/10.22373/sjhk.v5i1.9159>
- Hilary Arksey & Lisa O'Malley. (2005). Scoping studies: Towards a methodological framework. *Journal of Social Research Methodology*, 8(1), 19–32. <https://doi.org/10.1080/1364557032000119616>
- Ibn Farhan. (1995). *Tabsirat al-Hukkam fi Usul al-Aqdiyah wa Manahij al-Ahkam* (J. 'Ashli, Ed.; 1st ed.). Beirut: DĒr al-Kutub al-Ńilmiyyah.
- Ibn Qayyim, S. al-D. M. al-J. (1995). *al-Turuq al- Hukmiyyah fi al-Siyasah al-Shar'iyah* (Z. 'Amirat, Ed.). Beirut: DĒr al-Kutub al-Ńilmiyyah.
- Islamic Family Law (Federal Territories) Act 1984*. (n.d.). Retrieved October 9, 2023, from http://www.commonlii.org/my/legis/consol_act/iflta1984362/
- Islamic Relief Worldwide. (2012). *Islam and Refugees*.
- Islamic Relief Worldwide. (2014). *The rights of forced migrants in Islam Contents*. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/<https://jliflc.com/wp-content/uploads/2014/11/The-Rights-of-Forced-Migrants-in-Islam.pdf>
- JAKIM. (2015). *Laporan Tahunan JAKIM 2015*.
- Jureidini, R., & Hassan, S. F. (2019). Migration and Islamic Ethics. *Migration and Islamic Ethics*, September. <https://doi.org/10.1163/9789004417342>
- Justice, U. D. of. (2019). *Saudi Arabia 2019 Human Rights Report*. 1–30.
- Kagan, M. (2012). the Un "Surrogate State" and the Foundation of Refugee Policy in the Middle East. *University of California, Davis*, 18:2(201), 308–340.
- Kasim, N. M., Kamba, S. N. M., & Karim, F. (2022). *Optimization of Marriage Registration as Legal Certainty of Children ' s Rights in the Perspective of Maqasid Shariah*. 2022, 1–9. <https://doi.org/10.18502/kss.v7i15.12070>
- Khalid, A. Ab. W. & F. A. (2022). *Reimagining Refugee Integration, Realizing Sustainable Development Goals: Progress And Barriers In Malaysia, Indonesia, Thailand And Japan*. UKM Press.
- Leong Wai Kum. (2013). *Elements of Family Law in Singapore*. LexisNexis.
- Lim Huey Teng. (2020, May 1). *Malaysia: End Abusive Immigration Detention* / Human Rights Watch. Human Rights Watch. <https://www.hrw.org/news/2020/11/20/malaysia-end-abusive-immigration-detention>

- Loganathan, T., Chan, Z. X., Hassan, F., Ong, Z. L., & Majid, H. A. (2022). Undocumented: An examination of legal identity and education provision for children in Malaysia. *PLoS ONE*, 17(2 February). <https://doi.org/10.1371/journal.pone.0263404>
- Lysa, C. (2023). Governing Refugees in Saudi Arabia (1948–2022). *Refugee Survey Quarterly*, 42(1). <https://doi.org/10.1093/rsq/hdac027>
- Mahaseth, H., & Banusekar, S. (2022). Living in the Shadows: Rohingya Refugees in Malaysia. In *Asian Journal of International Law* (Vol. 12, Issue 2, pp. 259–266). Cambridge University Press. <https://doi.org/10.1017/S2044251322000091>
- Mamat, Z., Abdul, W., Wan, F., Baharuddin, A. S., Mutalib, L. A., Sains, U., Nilai, B. B., & Sembilan, N. (2023). *ISLAM EVALUATION OF THE MARRIAGE MANAGEMENT OF FOREIGN CITIZENS OF*. 4(1), 15–27.
- Mamat, Z., & Mohamed Razali, R. (2020a). Management of Marriage within the Rohingya Community in Malaysia from the Perspectives of Law and Sharia. *Kanun: Jurnal Undang-Undang Malaysia*, 32(2), 243–274. [https://doi.org/10.37052/kanun.32\(2\)no4](https://doi.org/10.37052/kanun.32(2)no4)
- Mamat, Z., & Mohamed Razali, R. (2020b). Pengurusan Perkahwinan Masyarakat Rohingya di Malaysia Menurut Perspektif Undang-Undang dan Syariah. *Kanun: Jurnal Undang-Undang Malaysia*, 32(2), 243–274. [https://doi.org/10.37052/kanun.32\(2\)no4](https://doi.org/10.37052/kanun.32(2)no4)
- Moors, A., Akhtar, R. C., & Probert, R. (2018). Contextualizing Muslim Religious-Only Marriages. *Sociology of Islam*, 6(3), 263–273. <https://doi.org/10.1163/22131418-00603001>
- Morad Alsahafi. (2022). When homeland remains a distant dream: language attitudes and heritage language maintenance among Rohingya refugees in Saudi Arabia. *International Journal of Bilingual Education and Bilingualism*, 25(4), 1292-1303.
- Mozaffari, M. H. (2020). *OIC DECLARATION ON HUMAN RIGHTS: CHANGING THE NAME OR A PARADIGM CHANGE?* <https://rwi.lu.se/rwi-supported-publications/>
- Muhammad Syahrial Razali Ibrahim. (2018). THE FREEDOM OF RELIGION IN THE THOUGHT OF SHAYKH MUHAMMAD HASBI ASH-SHIDDIEQY AS APPEARED IN HIS BOOK “TAFSIR AN-NUUR.” *1st International Conference on Religion , Social Sciences and Technological Education*, 1 (ISBN : 978-967-16186-1-5), 524.
- Munir-Asen, K. (2018). *(Re)negotiating Refugee Protection in Malaysia Implications for Future Policy in Refugee Management*. <https://doi.org/10.23661/dp29.2018>
- Nicosia, U. (2014). *The Integration of Refugees*.
- NRC and IHRC. (2016). *Securing Status*. November, 1–46.
- Nur Syazwani Muzafarkamal, & Ishtiaq Hossain. (2019). *View of Malaysia’s Policy towards the Rohingya Refugees (Polisi Malaysia terhadap pelarian Rohingya)*. International Islamic University Malaysia. <https://journals.iium.edu.my/jiasia/index.php/jia/article/view/848/414>
- OIC. (2006). *Enhancing Refugee and IDP Protection in the Muslim World: OIC Ministerial Conference on the Problems of Refugees in the Muslim World*.
- Oppenheim, B., Powell, B. M., & Bingham, L. (2015). *Legal Identity in the 2030 Agenda for Sustainable Development : Lessons from Kibera , Kenya Contact :*
- Organization of Islamic Cooperation (OIC). (1990). *بِسْمِ هَلَا الرَّحْمَنِ الرَّحِيمِ In the name of Allah, the Most Gracious, the Most Merciful The Cairo Declaration of the Organization of Islamic Cooperation on Human Rights*.
- Syariah Court Evidence (Federal Territories) Act 1997, (2006).

- Rahmatullah, T., Mamat, Z., Fattah, W. A., Ismail³, W., & Razali, R. M. (2022). REFUGEES IN MALAYSIA: ISSUES AND IMPORTANCE OF A BETTER LEGAL MANAGEMENT FOR REFUGEES. In *International Journal of Social Science Research (IJSSR)* (Vol. 4, Issue 1). <http://myjms.mohe.gov.my/index.php/ijssr><http://myjms.mohe.gov.my/index.php/ijssr>
- Ramlee, Z., & Malek, N. A. (2012). Methods of Proof and Evidentiary Requirements in Divorce Cases: an Islamic Perspective. *IJUM Law Journal*, *16*(2), 16–17. <https://doi.org/10.31436/iiumlj.v16i2.52>
- Razali, R. M. (2020). *THE INTRACTABLE RIGHTS TO MARRIAGE AND A LEGAL IDENTITY: LAW, PRACTICE, AND IMPLICATIONS FOR*. October.
- Razali, R. M., Duraisingam, T. J., & Lee, N. N. X. (2022). Digitalisation of birth registration system in Malaysia: Boon or bane for the hard-to-reach and marginalised? *Journal of Migration and Health*, *6*(June), 100137. <https://doi.org/10.1016/j.jmh.2022.100137>
- Razali, R. M., & Mamat, Z. (2019a). The Intractable Rights to Marriage and a Legal Identity: Law, Practice, and Implications for Muslim Rohingya in Malaysia. *Malaysian Law Journal*, *xciv*(October 2020), 7–8.
- Razali, R. M., & Mamat, Z. (2019b). The Intractable Rights to Marriage and a Legal Identity: Law, Practice, and Implications for Muslim Rohingya in Malaysia. *Malaysian Law Journal*, *xciv*(October 2020), 7–8.
- Sağiroğlu, A. Zafer. (2006). Turkey's Migration Law and Policy. Is it a New Era? In İ. S. and B. Pusch (Ed.), *Turkish Migration Policy*. Transnational Press Publication.
- Sahin, E., Dagli, T. E., Acarturk, C., & Sahin Dagli, F. (2021). Vulnerabilities of Syrian refugee children in Turkey and actions taken for prevention and management in terms of health and wellbeing. *Child Abuse and Neglect*, *119*(P1), 104628. <https://doi.org/10.1016/j.chiabu.2020.104628>
- Shoukri, A. M. (2011). *Refugee Status in Islam: Concepts of Protection in Islamic Tradition and International Law*.
- Shuaib, F. S. (2012). Number 1 Special Issue: Islamic Law and Islamic Legal Professionals in Southeast Asia 1-1-2012 Part of the Comparative and Foreign Law Commons Recommended Citation Recommended Citation Farid S. Shuaib, The Islamic Legal System in Malaysia, 21 Pac. Rim L. & Washington International Law Journal, 21, 85. <https://digitalcommons.law.uw.edu/wilj> Available at: <https://digitalcommons.law.uw.edu/wilj/vol21/iss1/8>
- Siddikoglu, H., & Sagiroglu, A. Z. (2023). The Responses of Pakistan and Turkey to Refugee Influxes: A Comparative Analysis of Durable Solutions to Protracted Siddikoglu, H., & Sagiroglu, A. Z. (2023). The Responses of Pakistan and Turkey to Refugee Influxes: A Comparative Analysis of Durable Solut. *Journal on Migration and Human Security Committee on Migration, Refugees and Displaced Persons.*, *11*(1), 41–56. <https://doi.org/10.1177/23315024231160764>
- Southwick, K. G. (2014). Myanmar's Democratic Transition: Peril or Promise for the Stateless Rohingya? *Tilburg Law Review*, *19*(1–2). <https://doi.org/10.1163/22112596-01902025>
- States, U. S. D. of. (2010). *Saudi Arabia Annual Human Rights Reports Submitted to Congress by the U.S. Department of State* (Issue December).
- Syahrin, M. A. (2018). *The Rohingya Refugee Crisis: Legal Protection on International Law and Islamic Law*. *192*(Icils), 94–99. <https://doi.org/10.2991/icils-18.2018.18>
- Tan Pok Suan. (2006). Everyday Life of the Rohingya in Malaysia: A Struggle in an Uncertain Life. In *Perjuangan Dalam Ketidakpastian Hidup Akademika* (Vol. 68).
- Teungku Muhammad Hasbi Ash-Shiddieqy. (2000). *Tafsir An-Nuur*. Pustaka Rizki Putra.

- Turan Kayaoglu. (2020). *The Organization of Islamic Cooperation's Declaration on Human Rights: Promises and Pitfalls*.
- Juvenile Protection Law, (2005).
- UNGA. (2018). *The global compact on refugees FINAL DRAFT*. June, 1–20.
- UNHCR. (n.d.). *UNHCR Help Turkiye: Marriage and divorce*. UNHCR. <https://help.unhcr.org/turkiye/social-economic-and-civil-matters/marriage-and-divorce/#:~:text=Under Turkish law%2C a Turkish,married by the Turkish authorities>
- UNHCR. (1967). Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol * In this advisory opinion , the Office of the United Nations High Commissioner for Refu. *Commentary*, 428(October), 1–19.
- UNHCR. (1979). *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*. Geneva, 1992. <https://www.unhcr.org/4d93528a9.pdf>
- (UNHCR). (2014). *Action Plan to End Statelessness, 2014-2024*. 1–36.
- US Department of Justice. (2022). *Saudi Arabia 2022 Human Rights Report*.
- Welton-Mitchell, C., Bujang, N., Hussin, H., Husein, S., Santoadi, F., & James, L. (2019). Intimate partner abuse among Rohingya in Malaysia: Assessing stressors, mental health, social norms and help-seeking to inform interventions. *Intervention*, 17(2), 187–196. https://doi.org/10.4103/INTV.INTV_18_19
- Zulfaqar Mamat, & Rodziana Mohamed Razali. (2020). Management of Marriage within the Rohingya Community in Malaysia from the Perspectives of Law and Sharia. *Jurnal Hukum 32 Kanun (2)*, 243–275. <http://creativecommons.org/licenses/by/4.0/>