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Philanthropy and Legal Aid: A Case Study

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Abstract

Cases in Syariah Courts in the country show a consistent increase of over 100,000 cases every five years. The cases filed in Syariah Courts cover several parts, namely Faraid cases, MAL cases, Criminal cases and Appeal cases. The divorce data among Muslims in Malaysia is quite worrying. According to sources, Muslim divorce is 80 percent more than divorce among non-Muslims, while the Muslim population is only 61.3 of the total population in Malaysia. The implications of divorce will usually involve legal issues such as alimony, mutaah, matrimonial property, child alimony, debt in marriage and so on. Similarly, in the event of the death of a spouse, the legal question that arises is inheritance, hibah, will, faraid and waqf. However, there is no denying that many Muslims in Malaysia still do not know about Shariah law, especially those involving law and court procedures. Therefore, advice, consultation and legal services are very much needed for a solution, especially if they wish to take the case to court. To that end, some universities in Malaysia have taken the initiative by setting up Syariah legal clinics. The author's study found that Syariah legal clinics have existed in several universities in Malaysia. Unfortunately, Universiti Teknologi MARA (UiTM), one of the oldest universities in Malaysia, does not yet have such a legal clinic. Therefore, this study aims to examine the needs of UiTM staff for the services of Syariah legal clinics. The quantitative method was selected in this study by using a questionnaire instrument involving a total of 34 samples of a pilot study that were randomly selected from UiTM staff. The finding shows that UiTM staff agreed for the establishment of Shariah legal clinic to cater their needs. It is hoped that the findings of this study can be used as a basis for the establishment of a Shariah law clinic in UiTM which serves as philanthropy to take care of the welfare of staff in terms of advisory services and legal consultancy.

Keywords: Klinik Guaman Syarie, Legal Aid, Consultation & Legal Services, Higher Education, Malaysia

Introduction

Philanthropy is an act or gift done or made for humanitarian purposes (Merriam-Webster Dictionary). It meant "love of humanity" or generosity in all its forms and is often defined as giving gifts of "time, talent and treasure" to make life better for others. The form of philanthropy that the authors try to highlight in this article relates to legal aid, a system of providing free advice about the law and practical help with legal matters for people who cannot afford to pay for it (Cambridge dictionary, 2022). This type of legal aid are well- established in some universities in Malaysia.

In the rule of law, the state guarantees equality before the law and recognizes and protects human rights, so that all people have the right to be treated equally before the law (equality before the law). Equality before the law must also be accompanied by equal treatment, one form of equality of treatment is providing legal aid to the poor and illiterate to achieve equitable access to justice. The form of legal assistance is the existence of a defense or assistance from an advocate i.e access to legal counsel (Asmadi, 2021). Ensuring equal access to justice, access to legal aid, an increased level of legal awareness among vulnerable groups, and a vibrant strong civil society, that contributes to access to justice, are key criteria for ensuring access to justice for vulnerable people (Teremetskyi, 2021).

In Malaysia, statistics show that, Muslim divorce is 80 per cent more than divorce among non-Muslims, while the Muslim population is only 61.3 of the total population in Malaysia (Sapuani, 2018; Ismail, 2022; Mohamad, 2022; Sam et al., 2014). Various legal issues will normally arise as the impact of divorce such as spousal support, alimony, marital property, child support, marital debt and so on. Similarly, in the event of the death of a spouse, the legal issues that arise are inheritance, gift, will, faraid and waqaf. However, the problem here is many Muslim communities in Malaysia are still ignorant about Shariah law, especially those involving court procedures (Adawiyah, 2019; Kerstin, 2019). Therefore, legal advice and consultation are needed especially for those who want to proceed with the case to court.

To tackle this problem, several higher education institutions have taken the initiative to establish Shariah legal clinics for a variety of reasons, including providing legal advice to the community on issues under the jurisdiction of Shariah courts and providing Shariah law students an exposure to the current Shariah legal issues that arise in society. Among the institutions are Universiti Kebangsaan Malaysia (UKM), International Islamic University Malaysia (IIUM), Universiti Sains Islam Malaysia (USIM), Kolej Universiti Islam Antarabangsa Selangor (KUIS) and Universiti Teknologi Malaysia (UTM).

The earliest legal clinic established in Malaysia's higher education institutions is Klinik Hukum Syara' which is launched on 1995 in Universiti Kebangsaan Malaysia (UKM) (Klinik Hukum Syarak, nd). Among the missions and objectives of the clinic are to improve practical skills among teaching staff related to legal studies, counseling and Syariah law. The clinic also serves as a practical training centre for students enrolled in the Diploma in Judicial Administration and Islamic Law program, as well as assisting the community by providing Shariah legal services and legal advice (Syarak, nd).

In 2000, the International Islamic University Malaysia (IIUM) Legal Aid Services Unit under the Ahmad Ibrahim Kuliyyah of Laws (AIKOL) has been established. The unit offers legal counseling, advising, or support services for any legal issues involving both civil and Shariah law. Since its establishment, the legal clinic has been offering guidance and advice in resolving conflicts and disputes for the single mother and the children for the university community and local community residing in the district of Gombak, Selangor (Legal Aid Services Unit, 2000).

Similarly, Universiti Sains Islam Malaysia (USIM) through the Faculty of Syariah and Law's (FSU) Legal Clinic, also provides legal education services related to Muslim family law. The faculty has been considering the idea of a legal clinic since 2013, when Klinik Bantuan Guaman Syariah & Undang - Undang (KBGU) was established. The most essential goal is to give students early experience, especially those enrolled in the current Bachelor of Laws & Syariah programme at the faculty. At the same time, the legal clinic offers services for the university's current academic staff who are in need to the legal information as well as current exposure to all aspects of civil and Syariah law in Malaysia (Musa, 2021).

In 2017, Klinik Rundingcara Syariah & Undang-undang (The Syariah & Law Consultation Clinic-KRC) was established in Kolej Universiti Islam Selangor (KUIS) under the Faculty of Syariah and Law to provide free syariah legal advice on Islamic family issues for the public. The KRC was established as a result of a Memorandum of Understanding (MOU) between the KUIS Faculty of Syariah & Law and the Malaysian Syariah Lawyers Association (PGSM). Marriage registration, legal guardianship, polygamy, divorce, mutaah alimony, iddah alimony, child custody, child alimony, marital property, and inheritance (faraid) are just a few example of the cases handled by this Sharia legal clinic (Syariah & Undang-undang, 2017).

In 2017 also Klinik Hukum Syarak dan Guaman Syarie was established at Univerisiti Teknologi Malaysia (UTM). The establishment is the result of collaboration with the Malaysian Syariah Lawyers Association (Persatuan Peguam Syarie Malaysia) of Johor State branch. This legal clinic provides services such as syariah legal advice, training, seminars and research related to the Shariah legal issues (Syarak & Guaman Syarie UTM, 2017)

The establishment of Shariah legal clinic in these six higher education institutions has played a very important role in educating and assisting society with Shariah legal knowledge and advice. Unfortunately, Universiti Teknologi MARA (UiTM), one of the oldest & largest universities in Malaysia, does not yet have such a legal clinic to cater the needs of their staff. therefore, this study is carried out to examine the needs of UiTM staff for the services of Syariah legal clinics.

Research Methodology

This study adopts quantitative method through survey. The survey was used to collect data relating to the respondents' knowledge relating to family matters and their need to legal clinic. The population of the study comprises of staff from various faculties and departments at UiTM. UiTM is selected as sample for the study as the university is the largest university and among the oldest university in Malaysia. A proper sampling technique is important in order to have a precise and unbiased sample that represents the whole populations. Since UiTM are scattered all over in Malaysia, simple random sampling was used to draw the samples.

Questionnaire was used as the main instrument for the study. Several sets of Likert-scale statements were posed to the respondents to get their self-reviewed assessment on their knowledge and understanding relating to marriage and family matters. Several dimensions or theme relating to marriage were expected to be responded by indicating the chosen scale of 1 = Strongly Disagree up to 5 = Strongly Agree. Questionnaires were distributed to the respondents via self-administered method. A total of 34 were managed to be distributed and collected for the purpose of data analysis.

Results and Discussion

The following sub-sections present the demographic profile of the respondents and discuss the analysis of the study's findings in relation to the respondents' need to Shariah Legal Clinic.

Respondents' Demographic Profile

A total of 34 questionnaires were completely filled and useable for the study. Data were analysed descriptively in order to assess the need of UiTM staff on Shariah Legal Clinic. The followings are the discussion on the analysis of the results.

Table 1

Respondents Demographic Profile

No.	Category	Total
1	Gender <ul style="list-style-type: none"> Male Female 	10 respondents 24 respondents
		Total : 34 respondents
2	Age <ul style="list-style-type: none"> 21-30 31-40 41-50 51 and above 	10 respondents 17 respondents 6 respondents 1 respondent
3	Religion <ul style="list-style-type: none"> Islam Kristian Buddha Hindu 	34 respondents - - -
4	Marriage Status <ul style="list-style-type: none"> Married Single Divorcee 	33 respondents 1 respondent -
5	No of Dependents <ul style="list-style-type: none"> 1-3 4-6 7-9 No dependent 	23 respondents 5 respondents 1 respondent 5 respondents
No.	Category	Total
1	Level of Education <ul style="list-style-type: none"> SPM Diploma Bachelor Master PhD 	3 respondents 10 respondents 10 respondents 8 respondents 3 respondents
2	Occupation <ul style="list-style-type: none"> Academic Non-Academic 	11 respondents 23 respondents
3	Grade <ul style="list-style-type: none"> DM52 	5 respondents

• DM51	1 respondent
• DM45	5 respondents
• N44	1 respondent
• N41	5 respondents
• N32	2 respondents
• N29	3 respondents
• N19	2 respondents
• U38	1 respondent
• U32	1 respondent
• W32	1 respondent
• W22	1 respondent
• F41	1 respondent
• KP29	1 respondent
• FA29	1 respondent
• S26	1 respondent
• N19	2 respondents
• R3	1 respondent

4	Income	
•	Less than RM2000	1 respondent
•	RM2001- RM4000	16 respondents
•	RM4001- RM6000	9 respondents
•	RM6001- RM8000	5 respondents
•	> RM8000	1 respondent

5	Faculties/Departments	
•	Acis	
•	Apb	7 respondents
•	Fsg	2 respondents
•	Fuu	2 respondents
•	Fspu	1 respondent
•	Fssr	1 respondent
•	Fsppp	2 respondents
•	Fita	1 respondent
•	Engineering faculty	1 respondent
•	Treasury	2 respondents
•	Registrar Office	4 respondents
•	PTAR	4 respondents
•	Student Affairs Division	1 respondent
•	Residence College	1 respondent

- Health Centre UiTM 2 respondents
- Police Division 1 respondent
- Transport Division 1 respondent

Out of the total 34 respondents for this study, the majority of them i.e 70.5 % are female and the majority range age is 31 – 41-year-old which is 50% of respondents. Most respondents occupied mainly administrative staff. Regarding their income, the study found that most of the respondents (47%) earn between RM 2001-RM4000. Most respondents (97%) are married, while only 3% are still single. The respondents were also asked about the number of dependents they need to maintain financially. Most of the respondents (67.6%) have between 1-3 dependents. With regard to their educational background, 58.8% of respondents are diploma and degree holders. Interestingly, the respondents came from various faculties and departments comprising among others Academy of Language Department (APB), the Academy of Contemporary Islamic Studies (ACIS), Faculty of Applied Science, Law Faculty, Engineering, Sport Science, Art & Creative, treasury Department, Registrar, Student Affairs, Library, Residency College, Transport and Health Department. This shows the involvement of staff representing different faculties and departments in UiTM.

Knowledge

The first theme asked to the respondents is about their basic knowledge on marriage & family matters. The result is shown in the following figure.

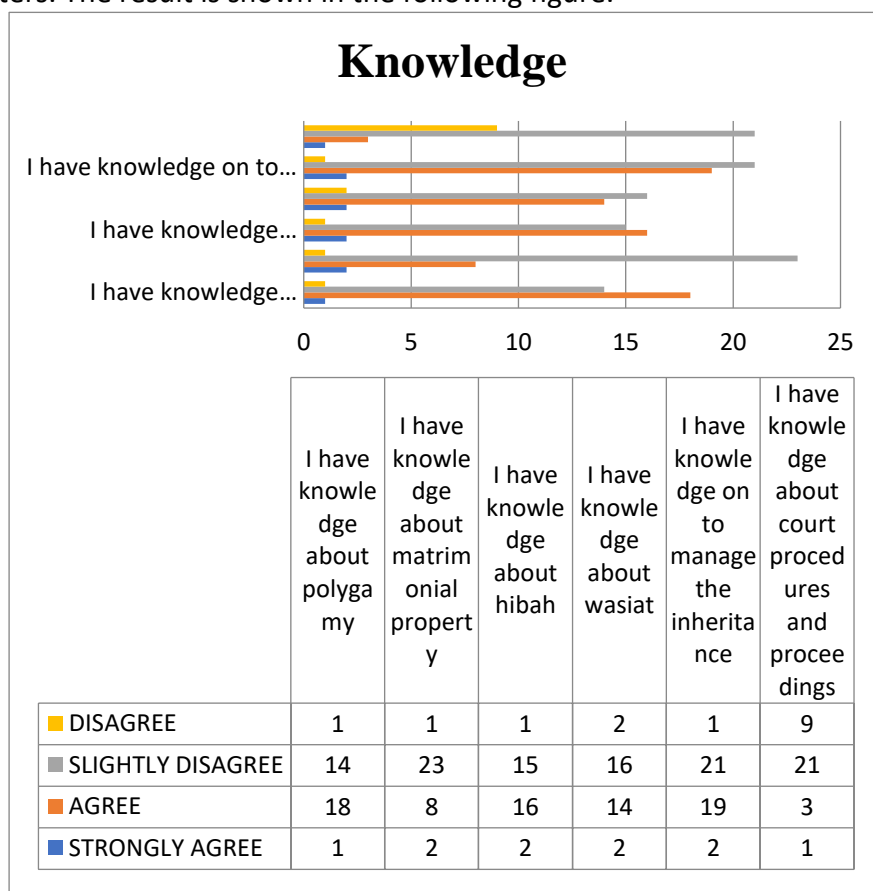


Figure 1: Knowledge

In this survey research, the respondents were asked to agree or disagree on specific statements relating to their knowledge on the important issue in marriage. For the question on their knowledge relating to court procedures and proceeding, most respondents (62%) chose slightly disagree. This can be understood that they have not enough knowledge on. Similarly, for the statement on knowledge in managing inheritance, majority of respondents (62%) responded slightly disagree. Next for the statement on “ I have knowledge about wasiat and hibah, majority of respondents negatively gave their responses, i.e 47 % and 44 % consecutively. Interestingly, in a statement on matrimonial property, 68 % of respondents slightly disagree with having knowledge about it. This shows that something should be done to disseminate widely to the public the information about the matrimonial property or harta sepencarian.

Experience

The second theme asked to the respondents is relating to their experiences in handling the marriage. The result is shown in the following figure.

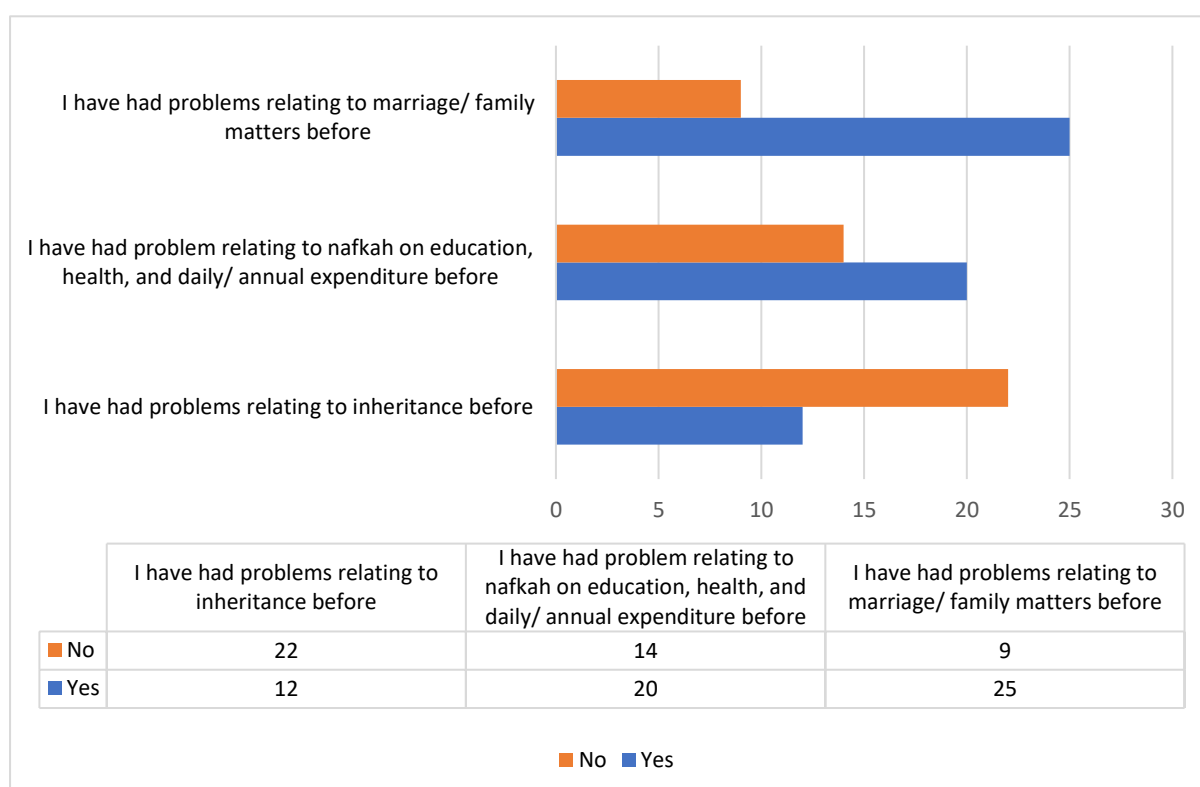


Figure 2: Experience

Based on the above figure, it shows that majority of respondents (73.5%) had problem relating to marriage, while 58.8% of the respondents has had problem relating to nafkah (maintenance) with regards to education, health or daily/annual expenditure before. However, only a few of the respondents (35%) have had problems relating to inheritance before. This may be because majority the respondent are still young in their age and have no experience on any death in the family before.

Opinion

The third theme asked to the respondents is relating to their experiences in handling the marriage. The result is shown in the following figure.

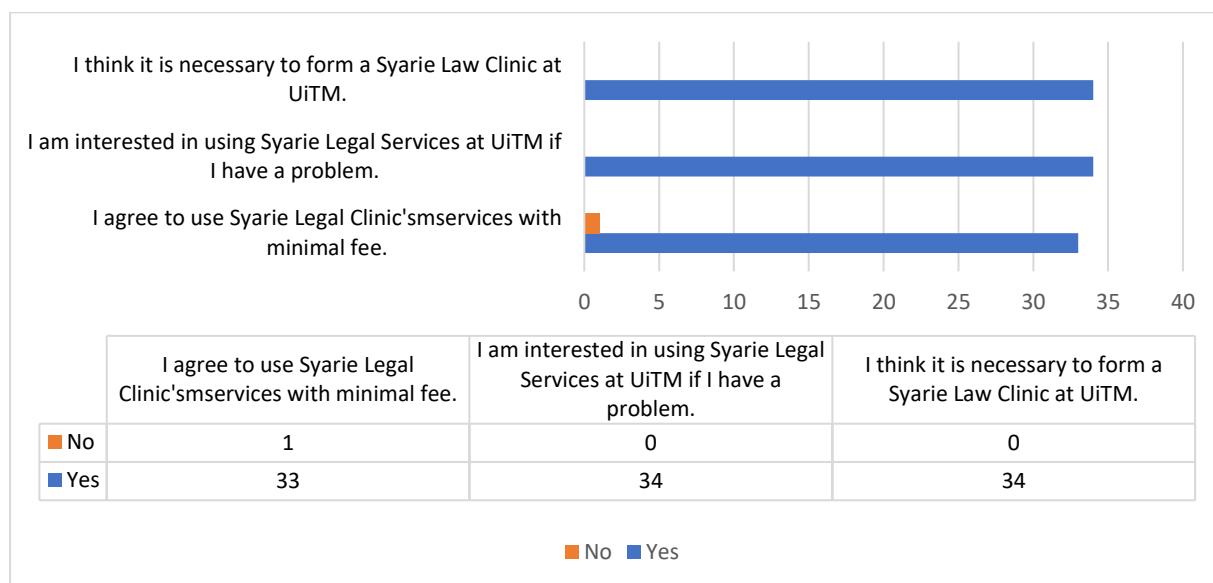


Figure 3: Opinion

With regard to their opinion on the establishment of Syariah law clinic, surprisingly, 100% of the respondent agree on that idea. Similarly, all respondents (100%) said they were interested in using Syariah Legal Services. The last question is whether the respondent agree to use Syariah law clinic with minimal fee, most respondents (97%) argue on that they are for that. This proves that UiTM staff need the service of Syariah legal clinic which serves as philanthropy to preserve their welfare.

Conclusion

Legal aid is a kind of assistance to people who are unable to have legal representation and access to justice system. It is regarded as an important aspect of the right to justice by ensuring their right to counsel and a fair trial. Establishing legal clinic is a good way to provide advisory services and legal consultancy. That is why most public university in Malaysia have been providing such services to accommodate the need of their staff. Research via survey questionnaire have been done at UiTM and the findings showed that the majority of UiTM staff agree with establishment of such clinics. It is hope that the establishment of syariah legal clinic become a reality in order to maintain the welfare of their staff. A quality staff who are free from any personal problems can stay motivated at work, maintain productivity and efficiency.

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